WAITING PERIOD BEFORE THE SALE, DELIVERY, OR TRANSFER OF A HANDGUN

HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

FIRST AND SECOND SESSIONS

ON

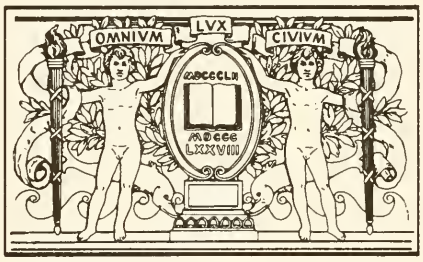
H.R. 975 and H.R. 155

TO PROVIDE FOR A WAITING PERIOD BEFORE THE SALE, DELIVERY, OR TRANSFER OF A HANDGUN

NOVEMBER 30, 1987, AND FEBRUARY 24, 1988

Serial No. 134

Printed for the use of the Committee on the Judiciary



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CONTENTS

HEARINGS DATES

	Page
November 30, 1987	1
February 24, 1988	193

TEXT OF BILLS

H.R. 975	2
Section by Section Analysis of H.R. 975	8
H.R. 155	11
Section by Section Analysis of H.R. 155	18

WITNESSES

Adelson, Dr. Lester, former Chief Deputy Pathologist, Coroner's Office, Cuyahoga County	45
Baker, James J., Director of Governmental Affairs, National Rifle Association of America	361
Biederman, Janice, Pepper Pike, OH	132
Bilik, Al, president, Public Employee Department, AFL–CIO	249
Brady, Sarah, vice chair, Handgun Control, Inc., Wife of James Brady, White House Press Secretary	438
Clough, Joseph B., Cleveland, OH, on behalf of the Gun Safety Institute	150
Coughlin, Barring, Esq., Cleveland, OH	151
Feighan, Edward F., a Representative in Congress from the State of Ohio	196
Fisher, Hon. Lee, a State Senator from the State of Ohio	90
Grumney, Lt. Col. Richard G., Assistant Superintendent, Ohio State Highway Patrol	40
Holland, Hon. Arthur J., Mayor, Trenton, NJ, Vice President of the United States Conference of Mayors	198
Johnston, Gary, Contributing Editor, Swat Magazine, on behalf of the American Firepower Association	163
Knox, Neal, Executive Director, The Firearms Coalition	361
Lawer, Peter, Executive Director, Northern Ohio Patrolmen's Benevolent Association, on behalf of the National Association of Police Organizations	116
McGlumphy, Darwin, First Vice President, Ohio Union of Patrolmens Association, Tallmadge, OH	118
Markus, Kent, Esq., Gold, Rotatori, Schwartz and Gibbons, Cleveland, OH	171
Metzenbaum, Hon. Howard M., a Senator from the State of Ohio	24
Napper, George, Commissioner, Department of Public Safety, Atlanta, GA, Secretary, Police Executive Research Forum, on behalf of the Police Executive Research Forum	198
Nilsson, Harry, Singer, Composer, Movie Producer, Member, Executive Committee, National Coalition to Ban Handguns	438
Pagano, Colonel Clinton L., Superintendent, New Jersey State Police	198
Pratt, Lawrence D., Executive Director, Gun Owners of America	361
Snyder, John, Director of Publications and Public Affairs, Citizens Committee for the Right to Keep and Bear Arms	361
Spurlock, Edward, Inspector, Metropolitan Police Department, Washington, DC, President, Police Management Association	300
Stokes, Dewey, National President, Fraternal Order of Police, Columbus, OH	102, 300
Tapscott, Marty M., former Chief of Police, Flint, MI, Past President, National Organization of Black Law Enforcement Executives	300

Page

Todd, James S., M.D., Senior Deputy Executive Vice Vice President, American Medical Association, accompanied by David Heidorn, Division of Legislative Activities, AMA, and Kenneth L. DeHart, M.D., Chairman, Government Affairs Commitee, American College of Emergency Physicians, on behalf of the American Medical Association 249
Vaira, Peter F., Esq., Partner, Fox, Rothschild, O'Brien & Frankel, Philadelphia, PA, and member, Council of the American Bar Association's Criminal Justice Section, on behalf of the American Bar Association 249
Vaughan, Jerald, Executive Director, International Association of Chiefs of Police, Gaithersburg, MD 300
Weber, James, Counsel, International Brotherhood of Police Officers 300
Whalen, Lawrence E., Chief of Police, Cincinnati Police Division, on behalf of the International Association of Chiefs of Police 31
White, John K., Cleveland, OH 139

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARINGS

Adelson, Dr. Lester, former Chief Deputy Pathologist, Coroner's Office, Cuyahoga County:
Photographs, Articles and Studies by Dr. Lester Adelson:
Photograph, "Aftermath" 47
Study, "Firearms Fatalities and the Coroner: A Brief Dissertation on "Human Folly, Stupidity and Viciousness" 48
Article, "Handguns and Criminal Violence" 51
Article, "Homicide and Suicide in a Metropolitan County" by Charles S. Hirsch, M.D., Norman B. Rushforth, Ph.D., Amasa B. Ford, M.D., and Lester Adelson, M.D. 57
Article, "The Gun and the Sanctity of Human Life; or The Bullet as Pathogen" 63
Special Article, "Violent Death in a Metropolitan County" by Norman B. Rushforth, Ph.D., Amasa B. Ford, M.D., Charles S. Hirsch, M.D., Nancy M. Rushforth and Lester Adelson, M.D 74
Prepared statement 46
Biederman, Janice, Pepper Pike, OH:
Newspaper articles 136
Prepared statement 134
Bilik, Al, President, Public Employee Department, AFL–CIO:
Resolution adopted at 1987 Convention 263
Biographical sketch 264
Prepared statement 261
Knox, Neal, Executive Director, The Firearms Coalition:
Article, "The Second Amendment—Our Freedom Guarantee," Neal Knox, author 389
Study, "The Armed Criminal in America," James D. Wright, author 392
Prepared statement 384
McGlumphy, Darwin, First Vice President, Ohio Union of Patrolmens Association, Tallmadge, OH:
Article, "Gun Control BIll Can Work," July 8, 1987 122
Prepared statement 120
Napper, George, Commissioner, Department of Public Safety, Atlanta, GA, Secretary, Police Executive Research Forum, on behalf of the Police Executive Research Forum:
Fact Sheet—Response to Questions Raised by Congressional Subcommittee: 214, 245
Prepared statement 206
Smith, Hon. Lamar, a Representative in Congress from the State of Texas: Letter from Robert Ferguson, President, National Association of Chief of Police, January 20, 1988 245
Spurlock, Edward, Inspector, Metropolitan Police Department, Washington, DC, President, Police Management Association:
Biographical sketch 329
Synopsis of prepared statement 330
Statement of Purpose of Police Management Association 334
Prepared statement 331
Stephens, Darrel, W., President, Police Executive Research Forum: Letter to Hayden Gregory, Counsel, Subcommittee on Crime, March 22, 1988 234

Page

Stokes, Dewey, National President, Fraternal Order of Police, Columbus, OH:
Article, "Virginia Guns Reported Traded for New York Drugs" by Jim Mason 309
Biography 108
Resolution No. 8, adopted April 29, 1987 115
Prepared statements 105
Todd, James S., M.D., Senior Deputy Executive Vice Vice President, American Medical Association :
Attachment—Report of the Council on Scientific Affairs on Firearms as a Public Health Problem in the United States: Injuries and Deaths 275
Prepared statement 267

APPENDIXES

Appendix 1.—Prepared statement of David Prislan, Electronic Technician, Eastland, OH 467
Appendix 2.—Prepared statement of David J. Steinberg, Executive Director, National Council for a Responsible Firearms Policy, Inc 469
Appendix 3.—Prepared statement of Ronald DeAngelo, Legislative Chairman, Police Association of the District of Columbia, on behalf of the National Association of Police Organizations 470
Appendix 4.—Prepared statement of Sterling Epps, Legislative Co-Chairman, Federal Law Enforcement Officers Associaiton 474
Appendix 5.—Prepared statement of Robert D. Gordon, Secretary/Treasurer, United Federation of Police 478
Appendix 6.—Letter to Congressman Hughes, and prepared statement of Stephen P. Halbrook, Ph.D., Attorney at Law 481
Appendix 7.—Prepared statement of Edward S. Jerse, Esq., Arthur & Hadden, Cleveland, OH 506

WAITING PERIOD BEFORE THE SALE, DELIVERY, OR TRANSFER OF A HANDGUN

MONDAY, NOVEMBER 30, 1987

House of Representatives,
Subcommittee on Crime,
Committee on the Judiciary,
Cleveland, OH.

The subcommittee met, pursuant to notice, at 9:30 a.m., Moot Court Room, Cleveland Marshall College of Law, Cleveland State University, East 18th Street and Euclid Avenue, Cleveland, OH, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes and Feighan.

Staff present: Hayden W. Gregory, counsel; Eric E. Sterling, assistant counsel; and Paul McNulty, associate counsel.

Mr. Hughes. The Subcommittee on Crime will come to order.

It is my pleasure to call the Subcommittee on Crime to order in Cleveland, OH, the premiere city of America's North Coast. The Subcommittee on Crime is here to take testimony on H.R. 975, a bill introduced by one of our most valued and hard-working members, Ed Feighan, the Congressman from Ohio's 19th District.

[The bills, H.R. 975 and H.R. 155, follow:]

I

100TH CONGRESS
1ST SESSION

H. R. 975

To provide for a waiting period before the sale, delivery, or transfer of a handgun.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1987

Mr. FEIGHAN introduced the following bill; which was referred to the Committee on the Judiciary

AUGUST 25, 1987

Additional sponsors: Mr. MORRISON of Connecticut, Mr. FUSTER, Mr. WALGREN, Mr. LEVIN of Michigan, Mr. BEILENSON, Mr. SMITH of Florida, Mr. TOWNS, Mr. RODINO, Mr. OWENS of New York, Mr. SOLARZ, Mr. CROCKETT, Mr. STARK, Mr. MINETA, Mr. HAWKINS, Mr. LEHMAN of Florida, Mr. GREEN, Mr. FASCELL, Mr. SAWYER, Miss SCHNEIDER, Mr. TORRICELLI, Mr. BERMAN, Mr. ACKERMAN, Mrs. BOXER, Mr. GARCIA, Mr. RANGEL, Mr. STOKES, Mr. BORSKI, Mr. DELLUMS, Mr. PORTER, Mr. HOWARD, Mr. HOCHBRUECKNER, Mr. MRAZEK, Mr. CONYERS, Mr. LEVINE of California, Mr. MILLER of Washington, Mr. MCKINNEY, Mr. MILLER of California, Mr. FAUNTROY, Mr. DOWNEY of New York, Mr. DYMALLY, Mr. MANTON, Mr. YATES, Mr. LOWRY of Washington, Mr. LEWIS, of Georgia, Mrs. MORELLA, Mr. SCHEUER, Mr. ST GERMAIN, Mr. FAZIO, Mr. AKAKA, Mr. EDWARDS of California, Mr. LIPINSKI, Ms. KAPTUR, Mr. TORRES, Mr. SUNIA, Mr. WAXMAN, Mrs. COLLINS, Ms. OAKAR, Mr. ROE, Mr. HOYER, Mr. ROYBAL, Ms. SLAUGHTER of New York, Mr. CARDIN, Mr. DWYER of New Jersey, Mr. STUDDS, Mr. MFUME, Mr. KENNEDY, Mr. BATES, Mr. GRAY of Pennsylvania, Mr. WHEAT, Mr. GONZALEZ, Mr. MAVROULES, Mrs. ROUKEMA, Mr. CLAY, Mr. PEPPER, Mr. LELAND, Mr. HAYES of Illinois, Mr. MARKEY, Mr. TRAFICANT, Mr. FOGLIETTA, Mrs. SCHROEDER, Mr. GEJDENSON, Mr. RUSSO, Mr. VENTO, Mr. SCHUMER, Mr. WEISS, Mr. GUARINI, Mr. WOLPE, Mr. VISCLOSKY, Mr. ATKINS, Mr. CARPER, Mr. BIAGGI, Mr. MATSUI, Mr. FORD of Tennessee, Ms. PELOSI, and Mr. FLAKE

A BILL

To provide for a waiting period before the sale, delivery, or transfer of a handgun.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) section 922 of title 18, United States Code, is
4 amended by adding at the end thereof the following:
5 "(p)(1) It shall be unlawful for any person to sell,
6 deliver, or transfer a handgun, otherwise permitted by law, to
7 an individual who is not licensed under section 923 unless—
8 "(A)(i) such transferor, before delivery of the
9 handgun and within one day after the date the trans-
10 feree proposes such transfer, has sent, by registered or
11 certified mail (return receipt requested), a copy of a
12 sworn statement by the transferee to the chief law en-
13 forcement officer of the place of residence of the trans-
14 feree notifying such officer of the proposed transaction;
15 and
16 "(ii) seven days have elapsed from the date such
17 sworn statement was sent and such transferor has not
18 received information from the chief law enforcement
19 officer that receipt or possession of the handgun by the
20 transferee would be in violation of Federal law or of a
21 State or local law of the residence of the transferee; or

1 "(B) the transferee has presented to the transferor
2 a certificate from the chief law enforcement officer of
3 the place of residence of the transferee which states
4 that the transferee requires access to a handgun
5 because of a threat to the life of the transferee.
6 "(2) Nothing in this subsection shall be interpreted to
7 require any action by a chief law enforcement officer which is
8 not otherwise required.
9 "(3) The sworn statement referred to in paragraph (1)
10 shall contain only—
11 "(A) an accurate description of the handgun
12 which is the subject of the proposed transaction;
13 "(B) the serial number of the handgun;
14 "(C) the name, address, and date of birth appear-
15 ing on a valid piece of the transferee's personal identi-
16 fication containing a photograph of the transferee and a
17 description of the identification used;
18 "(D) a statement that Federal law does not pro-
19 hibit the receipt of the handgun by the transferee; and
20 "(E) the date the sworn statement is made.
21 "(4) Any transferor who receives a report from a chief
22 law enforcement officer containing information that receipt or
23 possession of the handgun by the transferee is in violation of
24 Federal law or of State or local law of the residence of the
25 transferee, after a handgun has been transferred to the trans-

1 feree, shall immediately communicate all information such
2 transferor has about the transfer and the transferee to—
3 "(A) the chief law enforcement officer of—
4 "(i) the place of business of the transferor, in
5 the case the transferor is a licensed importer,
6 licensed manufacturer, or licensed dealer; or
7 "(ii) the place of residence of the transferor,
8 in any other case; and
9 "(B) the chief law enforcement officer of the place
10 of residence of the transferee.
11 "(5) Any transferor who receives information, not other-
12 wise available to the public, in a report under this subsection
13 shall not disclose such information except incident to the pro-
14 posed transaction.
15 "(6)(A) Any transferor who sells, delivers, or otherwise
16 transfers a handgun to a transferee shall retain the copy of
17 the sworn statement of the transferee with respect to the
18 handgun transaction for at least one year after the date the
19 transaction is completed.
20 "(B) Unless the chief law enforcement officer to whom a
21 copy of such sworn statement is sent determines that a trans-
22 action would violate Federal, State, or local law, the officer
23 shall destroy such copy within 60 days after the date the
24 transferee made such statement.

1 "(7)(A) Notwithstanding any other provision of this
2 title—
3 "(i) any dealer who violates the provisions of this
4 subsection shall be fined not more than $1,000, or im-
5 prisoned for not more than one year, or both; and
6 "(ii) any individual who willfully violates the pro-
7 visions of this subsection shall be fined not more than
8 $500.
9 "(B) The penalties provided in this paragraph shall be
10 the only penalties imposed for a violation of this subsection.
11 "(8) For purposes of this subsection, 'chief law enforce-
12 ment officer' means the chief of police, the sheriff, or an
13 equivalent officer or the designee of any such individual.
14 "(9) The Secretary shall take necessary actions to
15 assure that the provisions of this subsection are published and
16 disseminated to dealers and to the public.".
17 (b) This section and the amendments made by this sec-
18 tion shall not apply to dealers until 90 days after the date of
19 enactment of this Act and shall not apply to individuals other
20 than dealers, until 6 months after such date of enactment.
21 SEC. 2. Section 921(a) of title 18, United States Code,
22 is amended by adding at the end thereof the following new
23 paragraph:
24 "(25) The term 'handgun' means a firearm which
25 has a short stock and is designed to be held and fired

1 by the use of a single hand or any combination of parts
2 from which a handgun can be assembled.''.
3 SEC. 3. Section 924(a)(1) of title 18, United States
4 Code, is amended by inserting ''section 922(p),'' after
5 ''section,'' the first place it appears.
6 SEC. 4. Section 927 of title 18, United States Code, is
7 amended by—
8 (1) inserting ''(a)'' before ''No''; and
9 (2) adding at the end thereof the following:
10 ''(b) A provision of State law is not in direct and posi-
11 tive conflict with section 922(p) if such provision provides—
12 ''(1) for a waiting period of at least 7 days before
13 the transfer of a handgun; or
14 ''(2) that, before a handgun transfer is completed,
15 a law enforcement officer shall determine that the
16 transferee is qualified under law to receive a
17 handgun.''.

SECTION BY SECTION ANALYSIS

H.R. 975

Section 1 creates a new subsection (p) of section 922 (relating to unlawful acts) of title 18, United States Code.

(1) Seven day waiting period or emergency threat to life.
It shall be unlawful for any person to sell, deliver or transfer a handgun to an individual who is not licensed under the the Gun Control Act unless--

(A) (i) the transferor, within one day after the transferee proposes the transfer, sends a copy of a sworn statement by the transferee to the chief law enforcement officer (hereafter "chief") of the place of residence of the transferee notifying the chief of the transfer; and

(ii) seven days have passed from the date the sworn statement was sent, and the transferor has not received from the chief any information that the transferee's receipt of the firearm would violate federal, state or local law; or

(B) the transferee presents to the transferor a certificate from the chief of the place of the transferee's residence that the transferee requires access to a handgun because of a threat to the transferee's life.

(2) No duty created for the chief of police
No action by the chief is required by the subsection.

(3) Contents of the sworn statement.
The sworn statement shall contain only --

(A) a description of the handgun to be transferred;

(B) serial number of the handgun;

(C) transferee's name, address, date of birth as evidenced by valid photographic identification,
a description of the identification;

(D) a statement that Federal law does not prohibit the transferee's receipt of the handgun; [like current Federal law]

(E) the date of the statement.

(4) Post transfer notification responsibility.
If, following the transfer, the transferor learns from a chief that receipt by the transferee was in violation of Federal, State or local law, the transferor shall immediately notify --

the chief law enforcement officer of the transferor's place of business or residence; and

the chief law enforcement officer of the transferee's place of residence.

(5) Prohibition on disclosure of information by transferors.
Any transferor who receives confidential information about a transferee in a report made under this subsection shall not disclose the information except in connection with the transaction.

(6) Retention of copies of sworn statement
(A) The transferor shall retain a copy of the sworn statement of the transferee for at least one year after the transaction is completed.
(B) Unless the chief law enforcement officer has determined that the transaction would violate the law, the chief shall destroy the sworn statement within 60 days after the date the transferee made the statement.

(7) Penalties
(A) Any dealer who violates the provisions of this subsection shall be fined not more than $1,000 or imprisoned not more than one year, or both. (A misdemeanor). Any individual who willfully violates the subsection shall be fined not more than $500. (An infraction).
(B) These penalties shall be the only penalties imposed for a violation of this subsection.

(8) Definition of chief law enforcement officer
The term, "chief law enforcement officer" means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) Notification to the public
The Secretary of the Treasury shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

(b) Effective Date
These provisions shall not apply to dealers until 90 days after the date of enactment and shall not apply to individuals other than dealers until 6 months after the date of enactment.

Section 2 Definition of handgun
The term "handgun" means a firearm which has a short stock and is designed to be held and fired by the use of a single hand or any combination of parts from which a handgun can be assembled.

Section 3 Conforming amendment regarding the penalty

Section 4 Limitation on preemption of state and local waiting periods
This section amends 18 U.S.C. 927 to provide that a state or local waiting period law is not in direct and positive conflict with section 922(p) if the provision provides --

(1) for a waiting period of at least 7 days before the transfer of a handgun; or
(2) that, before a handgun transfer is completed, a law enforcement officer shall determine that the transferee is qualified under law to receive a handgun.

This provision means that waiting periods of 7 days or more are not preempted; and that waiting periods of 6 days or less are not

preempted if a law enforcement officer is charged with determining that the transferee is qualified under the law to receive a handgun.

100TH CONGRESS
1ST SESSION

H. R. 155

To prohibit the manufacture and importation of not readily detectable firearms, to prohibit the transfer and possession of silencers, and to provide for a waiting period before purchase of a handgun.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1987

Mr. FEIGHAN introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To prohibit the manufacture and importation of not readily detectable firearms, to prohibit the transfer and possession of silencers, and to provide for a waiting period before purchase of a handgun.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROHIBITION AGAINST MANUFACTURE OR IMPOR-**
4 **TATION OF NOT READILY DETECTABLE**
5 **FIREARMS.**

6 (a) MANUFACTURE OF NOT READILY DETECTABLE
7 FIREARMS.—

1 (1) IN GENERAL.—Section 922 of title 18, United
2 States Code, is amended by adding at the end the
3 following:
4 "(p) Except as provided in section 925(f), it shall be
5 unlawful for any person to manufacture any firearm which
6 the Secretary determines is not—
7 "(1) readily detectable as a firearm by the stand-
8 ard security equipment commonly used at airports; and
9 "(2) readily identifiable as a firearm.".
10 (2) EXCEPTION.—Section 925 of title 18, United
11 States Code, is amended by adding at the end the
12 following:
13 "(f) Section 922(n) shall not apply with respect to fire-
14 arms of any type determined by the Secretary to be identical
15 to any type designed and produced in the United States for
16 commercial sale before January 1, 1986.".
17 (b) IMPORTATION OF NOT READILY DETECTABLE
18 FIREARMS.—Section 925(d) of title 18, United States Code,
19 is amended—
20 (1) by striking "or" at the end of paragraph (3);
21 (2) by striking the period at the end of paragraph
22 (4) and inserting "; or"; and
23 (3) by inserting after paragraph (4) the following:
24 "(5) is—

1 "(A) readily detectable as a firearm by
2 standard security equipment commonly used
3 at airports; and
4 "(B) readily identifiable as a firearm.".
5 SEC. 2. PROHIBITION AGAINST TRANSFER AND POSSESSION
6 OF SILENCERS.
7 (a) SILENCER AND MUFFLER DEFINED.—Section
8 921(a)(24) of title 18, United States Code, is amended to
9 read as follows:
10 "(24) The terms 'silencer' and 'muffler' means any
11 device for silencing, muffling, or diminishing the report of a
12 portable firearm, including any part or combination of parts,
13 designed or redesigned, and intended for such use with a
14 firearm.".
15 (b) PROHIBITION.—Section 922 of title 18, United
16 States Code, is amended—
17 (1) in subsection (o)(1), by striking the period at
18 the end and inserting "or silencer."; and
19 (2) in subsection (o)(2)(B), by inserting "or silenc-
20 er" after "machinegun".
21 (c) CONFORMING AMENDMENTS.—
22 (1) Section 921(a)(3) of title 18, United States
23 Code, is amended by striking "any firearm muffler or
24 firearm silencer" and inserting "any muffler or silencer
25 for a firearm".

1 (2) Sections 922(a)(4) and 922(b)(4) of title 18,
2 United States Code, are each amended by striking
3 "machinegun (as defined in section 5845 of the Inter-
4 nal Revenue Code of 1986)," and inserting "machine-
5 gun, silencer, muffler,".

6 SEC. 3. WAITING PERIOD FOR PURCHASE OF HANDGUNS.

7 (a) DEFINITION.—Section 921(a) of title 18, United
8 States Code, is amended by adding at the end the following
9 new paragraph:

10 "(25) The term 'handgun' means a firearm which has a
11 short stock and is designed to be held and fired by the use of
12 a single hand.".

13 (b) PROHIBITION.—Section 922 of title 18, United
14 States Code, is amended by adding at the end the following:

15 "(p)(1) It shall be unlawful for a licensed importer, li-
16 censed manufacturer, or licensed dealer to sell, deliver, or
17 otherwise transfer a handgun to an individual who is not li-
18 censed under section 923 unless—

19 "(A) such importer, manufacturer, or dealer has,
20 before delivery of the handgun, sent by registered or
21 certified mail (return receipt requested), a copy of a
22 sworn statement by the transferee, in a form prescribed
23 by the Secretary—

24 "(i) to the chief law enforcement officer of
25 the place of residence of the transferee notifying

1 such officer of the proposed transaction, and re-
2 questing such officer—
3 "(I) to confirm the residence of the
4 transferee;
5 "(II) to examine State and local official
6 records of criminal convictions and adjudica-
7 tions of mental incompetency, readily avail-
8 able to that officer; and
9 "(III) to report to such importer, manu-
10 facturer, or dealer whether any such records
11 show any such conviction or adjudication for
12 the transferee; and
13 "(ii) to the Federal Bureau of Investigation
14 which shall—
15 "(I) examine Federal official records
16 which may reveal any circumstance making
17 illegal the receipt or possession of a handgun
18 by the transferee; and
19 "(II) report to the importer, manufac-
20 turer, or dealer whether any such records
21 show any such circumstance;
22 "(B)(i) such importer, manufacturer, or dealer has
23 received such reports from the chief law enforcement
24 officer of the place of residence of the transferee and
25 the Federal Bureau of Investigation; or

1 "(ii) 15 days have elapsed from the sending
2 of the sworn statement; and
3 "(C) such importer, manufacturer, or dealer
4 has not received information from the chief law
5 enforcement officer or the Federal Bureau of In-
6 vestigation that receipt or possession of the hand-
7 gun by the transferee would be in violation of
8 Federal law or of a State or local law of the resi-
9 dence of the transferee.
10 "(2) Any importer, manufacturer, or dealer who re-
11 ceives a report from the chief law enforcement officer or the
12 Federal Bureau of Investigation about a transferee after a
13 handgun has been transferred to the transferee shall, if the
14 report contains information that receipt or possession of the
15 handgun by the transferee is in violation of Federal law or of
16 State or local law of the residence of the transferee, immedi-
17 ately communicate all information such importer, manufac-
18 turer, or dealer has about the transfer and the transferee to—
19 "(A) the chief law enforcement officer of the place
20 of business of the importer, manufacturer, or dealer;
21 "(B) the chief law enforcement officer of the place
22 of residence of the transferee;
23 "(C) the Federal Bureau of Investigation; and
24 "(D) the Secretary.

1 "(3) Any importer, manufacturer, or dealer who re-
2 ceives information, not otherwise available to the public, in a
3 report under this subsection shall not disclose that informa-
4 tion except incident to the proposed transfer.".

SECTION BY SECTION ANALYSIS

H.R. 155

Section 1
A prohibition against manufacture or importation of not readily detectable firearms.

Section 2
A prohibition against transfer and possession of silencers.

Section 3
WAITING PERIOD FOR PURCHASE OF HANDGUNS.

Subsection (a)
Defines the term "handgun" to mean "a firearm which has a short stock and is designed to be held and fired by the use of a single hand."

Subsection (b)
Adds a new provision to the Gun Control Act of 1968 (18 U.S.C. 922(p)):

(1) Any licensed dealer, importer or manufacturer (licensee) before transferring a handgun to any person not licensed must:

* (A) Send by registered or certified mail a copy of a sworn statement (in a form prescribed by the Secretary of the Treasury) by the transferee to:
(i) the chief law enforcement officer (the Chief) of the place of residence of the transferee, and
(ii) the Federal Bureau of Investigation.

The notice to the Chief shall "request" the Chief to:
(I) confirm the residence of the transferee;
(II) examine State and local official records of criminal convictions and adjudications of mental incompetency, readily available to that officer; and
(III) report back to the licensee whether such records show any convictions or adjudication for the transferee.

Upon being notified, the FBI shall:
(I) examine Federal official records which may reveal any circumstance making illegal the receipt or possession of a handgun by the transferee; and
(II) report to the licensee whether any such records show any such circumstance.

* (B) (i) Receive reports from the Chief and the FBI; or
(ii) 15 days have elapsed from the sending of the sworn statement;
AND,
* (C) Not received information from the Chief or the FBI that the receipt or possession by the transferee would violate

Federal or State law, or the local law of the residence of the transferee.

(2) If after the transfer takes place, the licensee receives information from the Chief or the FBI that the receipt or possession by the transferee is a violation of the law, the licensee shall immediately communicate all information about the transfer and the transferee to:

(A) the Chief of the place of business of the licensee;
(B) the Chief of the place of residence of the transferee;
(C) the FBI; and
(D) the Secretary of the Treasury (Bureau of Alcohol, Tobacco and Firearms).

(3) Any licensee who receives information, not otherwise available to the public, in a report under this subsection, shall not disclose that information except incident to the proposed transfer.

Mr. HUGHES. I am Congressman Bill Hughes. I represent the 2nd Congressional District of New Jersey, the southern part of the State, and I have chaired this subcommittee since 1980.

H.R. 975 would amend Federal law to establish a waiting period before the purchase of a handgun can be completed. A waiting period would do two things. First, it provides a cooling-off period. All too tragically, there are instances in which angry or desperate persons buy a handgun and use it immediately after they buy it. The stock market crash of last month resulted in such a case, in which a foreign investor lost millions of dollars during the week of the crash. On the following Monday, he went to a gun shop and purchased a handgun which he took to the office of the stock broker. He shot and killed his stock broker and then killed himself.

It is possible that the waiting period would have allowed this distraught investor to calm down, thus saving two lives. A waiting period has the potential to be, in effect, a life-saver. A waiting period can also be an important crime prevention measure. It can prevent impetuous crimes of passion.

The records of the courts are peppered with tragedies in which jealousy or arguments of some kind touch off a murderous rage. The enraged person goes to a sporting goods store, buys a handgun, and almost immediately shoots someone, an unfaithful spouse or a lover, parent or wayward son, or someone outside the family, someone who has offered some offense.

These violent episodes if they involve a firearm are substantially more likely to be lethal than if other types of weapons are used. A waiting period, while not a panacea for this type of violence, certainly would have the effect of reducing the number of cases of handgun violence specifically and the number of crimes of passion homicides generally.

Once again, because of the specific lethal character of firearms, a waiting period for handgun purchases would reduce the number of successful suicide attempts. Just as importantly, a waiting period can keep firearms out of the hands of convicted felons more effectively than the current honor system. An honor system is fine for college students, military, Navy and Air Force Academy cadets and midshipmen, but our current handgun honor system, in which a person simply signs a Federal Treasury Department form, Form 4473, if you will, saying that he or she is not disqualified from receiving a firearm, is simply based on poor logic.

In 1981, the Attorney General's Task Force on Violent Crime in emphatically recommending a national waiting period for handgun purchases observed that convicted felons, illegal aliens, dishonorably-discharged service men, adjudicated mental incompetents, drug addicts, and fugitives from justice are not the persons that society should rely on to comply with an honor system providing firearms.

How often have you heard the argument that criminals do not buy their guns in gun shops? A major study of the firearms acquisition patterns of convicted felons, financed by the National Institute of Justice, revealed that 65 percent of the purchases of handguns by felons were from family and friends and lawful outlets that sold guns. Substantially more handguns are purchased from legitimate sources than are purchased in the black market.

The States and cities which have handgun waiting periods and which have been able to conduct studies of the unqualified persons detected by their waiting period programs have demonstrated that nationwide thousands of felons have been detected trying to buy firearms at licensed gun dealers. This demonstrates that waiting period legislation accomplishes one of the major purposes of the legislation: keeping handguns out of the hands of criminals.

Handgun violence is a plague. Between 15,000 and 20,000 Americans are killed by a handgun every year. Never do more than a couple of days pass before we hear on television or read in the newspapers that somebody has been killed in our city or town, but we live in a big nation, many of us in big cities, and we usually do not know anything about victims unless they are national or international figures, such as former United States Senator Robert Kennedy, Alabama Governor George Wallace, or artist John Lennon.

Today, we will have an opportunity to hear from the families of some people who have been killed by handgun-carrying murderers. I applaud the courage of the people whom we will hear from today and who have been able to overcome their great personal pain to testify before this subcommittee.

We have many excellent witnesses today from across Ohio, representing all aspects of law enforcement, and the many perspectives of the affected public. We are particularly pleased that Ohio's very distinguished Senator, Howard Metzenbaum, is here to testify this morning.

Senator Metzenbaum, one of the most energetic and hard working Senators, has long advocated a handgun waiting period. He has been in the forefront of the fight for legislation that would protect our society from violent criminals and the misuse of firearms.

The Chair at this time is going to recognize Ed Feighan, your Member of Congress, and a very distinguished Member of Congress. He served on the Subcommittee on Crime for many years and has worked very diligently on a whole host of crime packages coming out of this subcommittee.

We passed the comprehensive crime legislation just a few years ago that was heralded as the most sweeping anti-crime package to be developed perhaps in this century, and Ed was one of the people that worked very hard on that particular legislation, as well as a comprehensive Anti-Drug Abuse bill of 1986, which again Ed Feighan, as a member of this subcommittee, worked very hard to develop sections of that particular legislation.

The Chair at this time recognizes Ed Feighan.

Mr. FEIGHAN. Thank you very much, Mr. Chairman.

Let me welcome you and members of the subcommittee and staff to Cleveland today, and tell you how grateful we are for the opportunity to hold this Crime Subcommittee hearing in Cleveland.

We think that our community is one that has had substantial experience on this topic and can offer the subcommittee the kind of guidance that it needs as it considers this legislation.

Your leadership of the subcommittee has been extremely helpful in getting sensible gun control legislation considered, and on behalf of all of us in this community, we would like to thank you publicly.

I am particularly delighted that our colleague from the Senate, Senator Metzenbaum, could be with us today. As Congressman

Hughes indicated, Senator Metzenbaum has been an aggressive Member of the Senate on behalf of sensible handgun legislation, and he has introduced virtually identical legislation to the legislation that we are considering this morning.

I am confident that with the leadership and the dedication of somebody like Howard Metzenbaum, we are finally going to see some action on this proposal.

I am very impressed with the group of witnesses that we have today. A wide range of law enforcement agencies, including the Ohio Association of Chiefs of Police, the County Bar Association, the National Association of Police Organizations, and a wide range of law enforcement agencies, that will speak to the legislation—that will talk about their experiences in other jurisdictions, whether they are municipal or State jurisdictions—that have implemented waiting day periods. They will give us, I think, a solid foundation for understanding how valuable this waiting period could be for national consideration.

I am somewhat disappointed, Mr. Chairman, that one of the most vocal opponents to the legislation declined to testify today, that is, the National Rifle Association. It surprises me that they would walk away from a public opportunity to express their opposition, unfounded as I believe it to be.

I wanted the opportunity to ask them about the change of heart that they have had on this legislation because, as many of you know, the National Rifle Association, in what is called its Fact Book, published just a few years ago, endorsed a waiting period for the purchase of a handgun.

In that document, the National Rifle Association said a waiting period for the purchase of a handgun is "an effective means of reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring guns."

Well, I think that the National Rifle Association was absolutely correct in that judgment, and I hope that they will return to that judgment and to endorsing this proposal.

I think the legislation that we have before us is a simple, effective and reasonable approach to stopping some crime and some misuse of handguns. It clearly is not going to be a total solution, but I think it is an important beginning for us.

The chairman has already mentioned at least one instance where an individual life may have been saved if we had a national waiting period, citing the most recent example in Miami, and there are several other examples from throughout the country. We have had experiences in our own Cleveland community. Many of you will recall the incident that occurred a few years ago down at the Cleveland Public Library, an incident that might not have occurred had we had in place a waiting period for the purchase of that gun.

What those cases indicate, though, is exactly what the findings from across the country have indicated, and that is that waiting periods work. In California, where there is a waiting period of 15 days, some 1,200 ineligible applicants are weeded out every year. New Jersey police screen out another 500 bad applicants each year, individuals who, in fact, have criminal records, who have some history of mental incompetency, which would otherwise preclude

them from purchasing handguns, but who will, nevertheless, testify on an application form that they are not barred.

Some of our own municipalities in the greater Cleveland area have enacted ordinances that do prevent guns from getting into the wrong hands, but I think we all understand that we have to have a national waiting period because it is so easy for one person intending to purchase a gun to move to another or to cross, as you say, the line into another municipality or another State in order to purchase the gun at that location.

Everyday that we wait to enact a sensible control of the purchase of handguns, more Americans die. As a matter of fact, each day, some 50 Americans will be the victims of handgun assaults and will be killed as a result.

I think that we have a very great responsibility to take some sensible action, and I hope that this legislation before us is regarded as an important beginning step.

Again, Mr. Chairman, thank you very much for all of your efforts to date, and particularly for bringing this hearing to Cleveland and giving us an opportunity to express our interest in this legislation.

Thank you.

Mr. HUGHES. Thank you.

Our first witness this morning is one of the United States Senators from Ohio, Howard M. Metzenbaum.

Senator Metzenbaum was elected to a full term in 1976 after serving for most of 1974. He is one of the hardest working Members in the United States Senate. He is the fourth ranking member of the Committee on the Judiciary. He is chairman of the Subcommittee on Anti-Trust, Monopolies and Business Rights, and a member of the Subcommittee on the Constitution, and the Subcommittee on Courts and Administrative Practice. He is the third ranking member of the Committee on Labor and Human Resources.

Senator Metzenbaum is the chairman of the Labor Subcommittee and a member of the Subcommittee on Aging, the Subcommittee on Education, Arts and the Humanities, and the Subcommittee on the Handicapped.

He is also a member of the Energy and Natural Resources Committee and a member of the Select Committee on Intelligence.

This short itemization of the Senator's responsibilities does not do justice to the Senator's reputation on Capitol Hill as a master of the legislative process and the protection of the public interest opposing measures seeking special privileges for the narrow special interests.

Senator Metzenbaum had a very successful career in the Ohio House and the Ohio Senate, where he left a tremendous record of accomplishments. He was a nationally-regarded labor lawyer and has fought for racial justice for decades.

Senator Metzenbaum has been a long advocate for effective firearms laws and played a major role in the last two Congresses wetting down the excesses of the so-called McClure-Volkmer bills.

Senator, on behalf of the Subcommittee on Crime, we welcome you to the subcommittee. We have your prepared statement, which,

without objection, will be made a part of the record, and you may proceed as you see fit.

TESTIMONY OF HON. HOWARD M. METZENBAUM, A U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. Thank you very much, Congressman Hughes.

You have paid our community a great honor in bringing this hearing of the Crime Subcommittee to Cleveland. I know you do so at the instance of our very distinguished Congress person, Eddie Feighan, my very good friend for many years, and it means much to us to have this subcommittee hearing here, to give an opportunity to those who wish to testify to be able to do so without having to trek to Washington.

Yours has been a very, very distinguished record in the Congress, seven terms, from the State of New Jersey, and with no exception, day in and day out, your vote and your leadership can be found in the right place, and you have come here, as I say, at the invitation of my good friend, Eddie Feighan, who has certainly distinguished himself, I guess it is your third term, is it, Eddie?

Mr. FEIGHAN. Third term.

Senator METZENBAUM. Third term in Congress, who has made his own mark in a very short period of time. In so many instances I find that most Congresspersons find themselves limited to one particular area of expertise. Eddie Feighan has not done that. He has moved out and covered the gamut of issues in the Congress, and I am proud that he is my friend and does such a great job in the Cleveland community.

I am particularly proud also of the fact that as we have fought for this legislation, which has sometimes been referred to as the Sarah Brady bill, Sarah Brady being the wife of Jim Brady, who was the President's Press Aide, who was shot at the time there was an effort made by John Hinckley to assassinate the President. I am proud that so many police organizations of this country have seen fit to stand up and be counted, and I think that that has made a tremendous impact upon the Congress that the police organizations are with us on this issue, and no less a person whose name is certainly not an unfamiliar one in this community, and Strom Thurmond has said to me in so many words, "I like to be supportive of legislation that the police organizations want. I have enjoyed working with those people and I think they are on the right side."

Strom Thurmond's support, I have to tell you, is very, very significant in the United States Senate. Conservatives like me and liberals like him on their side.

I do want to report that the Constitution Subcommittee on which I serve will markup the waiting period bill and the plastic gun bill on December 1st, which is tomorrow.

Frankly, as I see it, there is no principle argument against a simple waiting period requirement. I do not know why anybody could be opposed to it. It allows a brief background check before a gun is purchased. All of us stand up and say they support legislation which would help crime control in this country as well as saving lives, and this bill presents such an opportunity. Opponents

throw up a smoke screen, which has nothing to do with gun ownership.

There is not one of us seated up here, or anybody that I know of in Congress, that wants to deprive any American of the right to own a gun. We do not want to deprive them of the right to own a handgun. We do not want to deprive them of the right to own a rifle or a hunting gun or target practice gun, and we certainly do not want to deprive anybody of the right to own a gun if they want it for self-defense or sporting purposes.

That has got nothing to do with waiting 1 week to buy a gun. The arguments of the major gun advocates, and that is the only way I know to describe them, indicates to me that they have lost sight of the legitimate concerns that so many Americans have about a gun getting in the hands of somebody who is emotionally distraught, excited, angry, or perhaps hopped up on drugs.

The NRA, in my opinion, no longer speaks for sportsmen or law and order. I have seen some of their full-page ads that they are running across the country. I spoke down in Naples the other day and somebody brought me a full-page ad that the NRA was running. It just misses the mark. Nobody, nobody wants to deprive anybody of the right to own a gun, but waiting 1 week to buy that gun is not going to impede that right.

Our legislation provides that if there is an emergency, the 1-week period may be waived. From cop-killer bullets to machine guns to plastic pistols, the NRA would allow any person to have any weapon. Think about it. They advocate the right of an individual to own a machine gun.

We had a battle with them on the question of cop-killer bullets, bullets that will pierce a vest that the police wear, and that was a big battle.

Frankly, convicted felons lie to dealers in order to get guns. It is often easier in our society to buy a gun than it is to cash a check. There is no time under the NRA position for a background check to see whether or not the individual has been mentally incompetent or to see whether the individual has a criminal record.

John Hinckley would not have been able to buy a handgun if a limited background check had been performed, and that recent incident in Florida that Congressman Hughes mentioned, in which a distraught man killed his stock broker, would not have happened if a 7-day waiting period had been in effect, instead of a 48-hour waiting period, which did not enable authorities to learn of his prior criminal conviction.

A waiting period of 1 week would help spot criminals and the mentally disturbed individuals, and it would provide a cooling off period for that individual who is hot under the collar because somebody, his wife, his girlfriend, somebody else, has gotten him upset.

As Congressman Feighan mentioned, in December of 1984, Kent Malcolm bought a gun in the Cleveland area for $126. He lied to the dealer, telling him he had never been convicted of a felony, even though he had several convictions on his record. Two hours after he left the gun shop, he entered the Cleveland Public Library, a few blocks from where we are right now, and before he was

stopped, Malcolm killed one woman and wounded two others. What a senseless loss of life.

Waiting periods work. States and localities have found them to be effective. It does not deprive law-abiding citizens from owning a gun or protecting themselves. The bill provides that anyone who needs a handgun immediately can obtain a waiver. It is a simple and modest step which can save lives. I think it is time that we stand up to those who consider themselves gun advocates, gun advocates in the wrong way in this respect, and that we move forward.

Congressman Hughes, I want to tell you how much I appreciate the honor and privilege you gave me by allowing me the opportunity to sit with you and Ed on this subcommittee. I regret that I will have to leave early because I must catch a plane out of town, but I do want to hear some of the witnesses. I am very grateful to you for bringing the hearing here and for giving me the privilege and opportunity to sit with you and Ed this morning.

Mr. HUGHES. Thank you, Senator, for a very fine statement, and you are welcome to join us as long as you can. I know you have to make a trip to New York later on today.

Senator METZENBAUM. Thank you.

[The statement of Senator Metzenbaum follows:]

U.S. Senator Howard M.
METZENBAUM
of Ohio

Committees
Judiciary
Labor and Human Resources
Energy and Natural Resources
Select Committee on Intelligence

Chairmanships
Subcommittee on Antitrust
Subcommittee on Labor
Subcommittee on Energy
Regulation and Conservation

STATEMENT OF SENATOR HOWARD METZENBAUM
TO HOUSE SUBCOMMITTEE ON CRIME REGARDING
LEGISLATION TO REQUIRE A WAITING PERIOD FOR HANDGUN PURCHASES
NOVEMBER 30, 1987

MR. CHAIRMAN, I GREATLY APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS SUBCOMMITEE. I WANT TO LEND MY SUPPORT, IN THE STRONGEST AND MOST VIGOROUS WAY I CAN, TO THE EFFORT TO ENACT A BILL TO REQUIRE A WAITING PERIOD FOR HANDGUN PURCHASES. I PARTICULARLY WANT TO COMMEND CONGRESSMAN FEIGHAN FROM OHIO FOR HIS LEADERSHIP IN THIS AREA. AS YOU KNOW, CONGRESSMAN FEIGHAN AND I HAVE INTRODUCED IDENTICAL LEGISLATION TO REQUIRE A SEVEN DAY WAITING PERIOD.

ED FEIGHAN HAS BEEN A COURAGEOUS AND DEDICATED MEMBER OF THE HOUSE. HE HAS STOOD UP FOR WHAT IS RIGHT ON ONE TOUGH ISSUE AFTER ANOTHER, AND HE HAS DONE SO AGAIN IN INTRODUCING THIS LEGISLATION. I AM ESPECIALLY PROUD TO BE ABLE TO WORK WITH HIM IN OUR EFFORTS TO PASS THIS BILL. THE CONSTITUTION SUBCOMMITTEE OF THE SENATE

JUDICIARY COMMITTEE WILL BE MEETING TO VOTE ON THE WAITING PERIOD BILL I HAVE INTRODUCED, IN ADDITION TO ONE BANNING PLASTIC GUNS, ON DECEMBER 1.

THERE IS NO PRINCIPLED ARGUMENT AGAINST A SIMPLE AND MODEST REQUIREMENT THAT PERSONS WHO WISH TO BUY HANDGUNS WAIT SEVEN DAYS TO ALLOW FOR A BRIEF BACKGROUND CHECK BY LOCAL LAW ENFORCEMENT OFFICIALS. THOSE WHO OPPOSE THIS BILL, IN FACT, DO NOT OFFER PRINCIPLED ARGUMENTS. THEY RELY INSTEAD ON MISLEADING CLAIMS ABOUT HOW THIS MIGHT BE A FOOT IN THE DOOR FOR MORE EXTREME LEGISLATION. THEY THROW UP SMOKESCREENS ABOUT SPORT-SHOOTING AND SELF-DEFENSE, WHEN THE BILL AFFECTS NEITHER. THEY OBJECT THAT THE BILL IS NOT PERFECT BECAUSE IT WILL NOT STOP ALL VIOLENT CRIMES.

THESE ARE THE ARGUMENTS OF KNEE-JERK GUN ADVOCATES. THEY ARE THE ARGUMENTS OF THOSE WHO HAVE LOST ALL SIGHT OF THE LEGITIMATE CONCERNS OF SAFETY AND RIGHTS OF SPORTSMEN, ONCE ADVOCATED ABLY AND RESPONSIBLY BY THE NATIONAL RIFLE ASSOCIATION.

TODAY, THE NRA NO LONGER SPEAKS FOR SPORTSMEN. IT NO LONGER SPEAKS FOR LAW ENFORCEMENT OFFICIALS OR FOR LAW AND ORDER. IT ADVOCATES AN IRRATIONAL POSITION. FROM COP KILLER BULLETS TO MACHINE GUNS TO PLASTIC PISTOLS, THE NRA WOULD ALLOW ANY WEAPON INTO THE HANDS OF ANY PERSON. IT TAKES THIS EXTREME POSITION NO MATTER WHAT THE PRINCIPLES INVOLVED OR HOW MANY MORE LIVES WILL BE LOST.

THE SIMPLE FACT IS THAT CONVICTED FELONS LIE TO DEALERS AND WALK AWAY FROM PAWN SHOPS, DRUG STORES AND SPORTING SHOPS WITH GUNS THEY ARE LEGALLY BANNED FROM PURCHASING. WHY? BECAUSE IT IS OFTEN EASIER TO OBTAIN A GUN IN THIS SOCIETY THAN TO CASH A CHECK. THERE IS NO TIME FOR A BACKGROUND CHECK, NO OPPORTUNITY TO VERIFY THE FACTS CLAIMED BY THE EAGER CUSTOMER.

JOHN HINCKLEY WOULD NOT HAVE BEEN ABLE TO BUY A HANDGUN IF A LIMITED BACKGROUND CHECK HAD BEEN PERFORMED. THE RECENT INCIDENT IN FLORIDA, IN WHICH A DISTRAUGHT MAN KILLED HIS STOCK BROKER, WOULD NOT HAVE HAPPENED IF A SEVEN DAY WAITING PERIOD HAD BEEN IN EFFECT, INSTEAD OF A 48 HOUR WAITING PERIOD WHICH DID NOT ENABLE AUTHORITIES TO LEARN OF HIS PRIOR CRIMINAL CONVICTION.

NOT ONLY WILL A SEVEN DAY WAITING PERIOD SPOT THOSE WITH RECORDS OF CRIMINAL CONVICTIONS OR MENTAL DISTURBANCE, IT WILL ALLOW THOSE IN A VIOLENT RAGE TO "COOL OFF" BEFORE THEIR ANGER TURNS INTO MURDER. THE RECORD IS FILLED WITH ONE TRAGIC CASE AFTER ANOTHER IN WHICH SOMEONE, DISTRAUGHT AND IN A VIOLENT RAGE, BUYS A GUN AND, LITERALLY WITHIN HOURS, KILLS HELPLESS, INNOCENT PEOPLE.

IN DECEMBER 1984, KENT MALCOLM BOUGHT A GUN IN THE CLEVELAND AREA FOR $126. HE LIED TO THE DEALER, TELLING HIM HE HAD NEVER BEEN CONVICTED OF A FELONY, EVEN THOUGH HE HAD SEVERAL CONVICTIONS ON HIS RECORD. TWO HOURS AFTER HE LEFT THE GUN SHOP, HE ENTERED THE CLEVELAND PUBLIC LIBRARY, A FEW BLOCKS FROM WHERE WE ARE RIGHT NOW.

BEFORE HE WAS STOPPED, MALCOLM KILLED ONE WOMAN AND WOUNDED TWO OTHERS.

WAITING PERIODS WORK. STATES AND LOCALITIES WHICH HAVE INSTITUTED THEM HAVE FOUND THEM EFFECTIVE IN STOPPING GUNS FROM FALLING INTO THE WRONG HANDS. WAITING PERIODS DO NOT DEPRIVE LAW-ABIDING CITIZENS FROM OWNING GUNS OR FROM PROTECTING THEMSELVES. LEGISLATION INTRODUCED BY CONGRESSMAN FEIGHAN AND MYSELF PROVIDES THAT ANYONE WHO NEEDS A HANDGUN IMMEDIATELY CAN OBTAIN A WAIVER OF THE WAITING PERIOD FROM LOCAL LAW ENFORCEMENT OFFICIALS.

MR. CHAIRMAN, IT IS COMMON FOR MEMBERS OF CONGRESS TO CLAIM THAT THEY WANT TO REDUCE CRIME, AND THAT THEY WANT TO SAVE LIVES. BUT IS NOT SO COMMON TO FIND A WAY TO ACCOMPLISH THOSE OBJECTIVES. THIS BILL PRESENTS SUCH AN OPPORTUNITY. IT IS A SIMPLE AND MODEST STEP WHICH CAN SAVE LIVES, WITHOUT IMPOSING ANY HARDSHIP ON LAW-ABIDING CITIZENS AND WITHOUT COSTING THE TAXPAYER MORE HARD-EARNED DOLLARS. I COMMEND YOU FOR MOVING FORWARD ON THIS BILL, AND I SINCERELY HOPE THE HOUSE OF REPRESENTATIVES WILL ACT IN THE INTERESTS OF THE PUBLIC AND STAND UP TO THE EXTREME GUN ADVOCATES WHO CARE NOTHING ABOUT THE AVERAGE LAW-ABIDING CITIZEN.

Mr. HUGHES. Our first panel this morning consists of some very distinguished law enforcement administrators and former administrators. I wonder if you will come forward and take seats at the witness table as I call you.

Mr. Lawrence E. Whalen, the Chief of Police of the Cincinnati, OH, Police Division, testifying on behalf of the International Association of Chiefs of Police.

Mr. Frank L. Catlett, the Chief of Police of Lima, OH, the chairman of the Legislative Committee of the Ohio Association of Chiefs of Police.

Lt. Col. Richard G. Grumney, the Assistant Superintendent of the Ohio State Highway Patrol, testifying on behalf of Col. Walsh, the Superintendent of the Highway Patrol, who wanted to testify, but, unfortunately, has a conflict in his schedule today.

Finally, we have Dr. Lester Adelson, who, for over 35 years, has served as the Chief Deputy Coroner in the Coroner's Office, Cuyahoga County, OH. He is a Professor of Forensic Pathology at Case Western Reserve University, School of Medicine, and is the author of over 100 medical papers. His articles about the role of handguns and the changing patterns of homicides and suicides have been published in the Journal of the American Medical Association and the New England Journal of Medicine.

Gentlemen, on behalf of the Subcommittee on Crime, we welcome you. We have your statements, which, without objection, will be made a part of the record, and you may proceed as you see fit.

Is Frank Catlett with us? He is not. OK.

Let's begin with you, Mr. Whalen? Welcome.

TESTIMONY OF LAWRENCE E. WHALEN, CHIEF OF POLICE, CINCINNATI POLICE DIVISION, ON BEHALF OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. WHALEN. Thank you, sir.

Good morning, ladies and gentlemen. I am Lawrence Whalen, the Chief of Police for Cincinnati, Ohio. I am very pleased to be here today on behalf of President Joe D. Casey and Executive Director Gerald R. Long from the International Association of Chiefs of Police (I.A.C.P.).

The I.A.C.P. was created in 1893 to celebrate the exchange of information from among police administrators and to promote the highest possible standards of conduct within the police profession. Our membership has grown to nearly 14,500 police chiefs and other law enforcement executives from across the United States and 68 nations throughout the world.

I.A.C.P. members lead a band of more than 480,000 officers at the Federal, State and municipal levels of the government. Throughout its history, the association has involved itself in issues that advance the welfare and well-being of the citizens our members have sworn to protect.

We have just such an issue before us today. We would like to commend Congressmen Feighan and Hughes and Senator Metzenbaum for introducing legislation that will require a reasonable waiting period to be observed before a handgun may be purchased.

The I.A.C.P. has long supported a waiting period for handgun purchases.

In 1981, the I.A.C.P. officially adopted this position by resolution. This position was reaffirmed at the 94th Conference held this year in Toronto, Canada, in October, when the membership passed another resolution specifically supporting the legislation which is the subject of this hearing.

From the outset, we would like to be very clear. The issue here is not handgun control. This legislation is not anti-gun and I.A.C.P. is not an anti-gun association. We are law enforcement executives. Guns are the tools of our trade and many of our members are collectors and sportsmen. We at I.A.C.P. support the right of all Americans to keep and have arms, and we support the legitimate sporting, recreational, law enforcement, and private security uses of firearms.

However, we realize that crimes committed by individuals using handguns are one of the most serious problems of violence facing our nation today. We must do whatever we can to help alleviate this situation. It is our experience that the adoption of a waiting period helps eliminate senseless violence perpetrated by firearms.

We do not think anyone here would dispute that there are certain people who simply should not be allowed to purchase guns. Convicted criminals, mental incompetence, drug abusers and so forth. Last year, Congress acted to tighten up some of the language that disqualifies such persons from buying firearms, but such laws are meaningless if we merely take the word of a purchaser that he or she is eligible to purchase a firearm without giving the shop time to check out the information supplied.

We are not so naive as to believe we can keep guns out of every dangerous or criminal hand, but we can certainly keep them out of some. We at the I.A.C.P. have heard mainly two criticisms of this kind of legislation.

The first is that these laws do not work. Secondly, this is just the beginning of more pervasive and intrusive gun control legislation. We do not believe that either one of these arguments are true.

First, of course, these laws do work. They give law enforcement a chance to check the background of persons before they are allowed to purchase a handgun. When we check the background of the person wanting to purchase a handgun, we sometimes find out very startling information.

In the 19 years that New Jersey has required a background check for handgun purchases, 10,000 convicted felons have been caught trying to buy handguns, according to the Superintendent of the New Jersey State Police. The Chief of Police of Columbus, Georgia, says that the city's 3-day waiting period catches two felons a week trying to buy handguns. A Memphis, Tennessee, police sergeant reports the State's 15-day waiting period screens out about 50 applicants a month, much of whom have criminal records.

The California Attorney General's Office says that the State's 15-day waiting period caught 1,200 prohibited handgun buyers in 1 year alone. In Maryland, the State Police report that every year, hundreds of individuals with criminal records are caught attempting to purchase handguns through gun dealers.

The evidence seems very clear to us, that this type of bill does work, and gives us another tool to protect and promote public safety.

Concerning the second argument against this type of bill, we at the I.A.C.P. do not think that this is the beginning of more pervasive handgun control legislation. This type of bill only hurts the criminals and others who are prohibited by law from carrying handguns.

As I said, the I.A.C.P. supports the rights of all Americans to keep and have arms and for legitimate sporting, recreational, law enforcement, private security uses of firearms. We do not think that the majority of Americans will stand by and watch the constitutional right to keep and have guns dismantled. But the Constitution does not say that you have the right to keep and have guns immediately.

A 7-day waiting period does not infringe upon any constitutional right. Although the bill that was introduced will give local law enforcement officials the discretion as to whether to conduct a background check in a particular case, the I.A.C.P. will encourage its members to conduct a check of each and every instance.

The waiting period is not only important as the time to conduct a background check, it also serves as a cooling-down period in which a person who tries to purchase a gun in the heat of anger, has time to calm down and rethink what he or she intended to do with that gun.

If we can save just one life by requiring a waiting period, the minimal inconvenience of law-abiding gun purchasers and to the police departments will be well worth it.

We thank you very much for considering our views on this subject, and I would be happy to respond to any questions that the Chair and the committee has to ask.

[Statement of Mr. Whalen follows:]

STATEMENT OF

THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

ON

THE HANDGUN VIOLENCE PREVENTION ACT: H.R. 975/S.466

BEFORE THE

HOUSE COMMITTEE ON THE JUDICIARY'S

SUBCOMMITTEE ON CRIME

NOVEMBER 30, 1987

CLEVELAND, OHIO

CHIEF LAWRENCE E. WHALEN

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

POLICE

GOOD MORNING LADIES AND GENTLEMEN. I AM LAWRENCE E. WHALEN, CHIEF OF POLICE FOR CINCINNATI, OHIO. I AM VERY PLEASED TO BE HERE TODAY ON BEHALF OF PRESIDENT JOE D. CASEY AND EXECUTIVE DIRECTOR JERALD R. VAUGHN OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE. THE IACP WAS CREATED IN 1893 TO FACILITATE THE EXCHANGE OF INFORMATION AMONG POLICE ADMINISTRATORS TO PROMOTE THE HIGHEST POSSIBLE STANDARDS OF CONDUCT WITHIN THE POLICE PROFESSION. OUR MEMBERSHIP HAS GROWN TO INCLUDE 14,500 POLICE CHIEFS AND OTHER LAW ENFORCEMENT EXECUTIVES FROM ACROSS THE UNITED STATES AND 68 NATIONS THROUGHOUT THE WORLD. IACP MEMBERS LEAD AND MANAGE MORE THAN 480,000 OFFICERS AT THE FEDERAL, STATE, AND MUNICIPAL LEVELS OF GOVERNMENT.

THROUGHOUT ITS HISTORY, THE ASSOCIATION HAS INVOLVED ITSELF IN ISSUES THAT ADVANCE THE WELFARE AND WELL-BEING OF THE CITIZENS OUR MEMBERS ARE SWORN TO PROTECT. WE HAVE JUST SUCH AN ISSUE BEFORE US TODAY. WE WOULD LIKE TO COMMEND CONGRESSMAN FEICHAN AND SENATOR METZENBAUM FOR INTRODUCING LEGISLATION THAT WILL REQUIRE A REASONABLE WAITING PERIOD TO BE OBSERVED BEFORE A HANDGUN MAY BE PURCHASED. THE IACP HAS LONG SUPPORTED A WAITING PERIOD FOR HANDGUN PURCHASES. IN 1991, THE IACP OFFICIALLY ADOPTED THIS POSITION BY RESOLUTION.

CANADA, IN OCTOBER OF THIS YEAR, WHEN THE MEMBERSHIP PASSED ANOTHER RESOLUTION SPECIFICALLY SUPPORTING THE LEGISLATION WHICH IS THE SUBJECT OF THIS HEARING.

FROM THE OUTSET, LET US BE VERY CLEAR: THE ISSUE HERE IS NOT HANDGUN CONTROL. THIS LEGISLATION IS NOT "ANTI-GUN" AND IACP IS NOT AN "ANTI-GUN" ASSOCIATION. WE ARE LAW ENFORCEMENT EXECUTIVES. GUNS ARE THE TOOLS OF OUR TRADE AND MANY OF OUR MEMBERS ARE COLLECTORS AND SPORTSMEN. WE AT IACP SUPPORT THE RIGHT OF ALL AMERICANS TO KEEP AND HAVE ARMS, AND WE SUPPORT THE LEGITIMATE SPORTING, RECREATIONAL, LAW ENFORCEMENT AND PRIVATE SECURITY USES OF FIREARMS. HOWEVER, WE REALIZE THAT CRIMES COMMITTED BY INDIVIDUALS USING HANDGUNS ARE ONE OF THE MOST SERIOUS PROBLEMS OF VIOLENCE FACING OUR NATION TODAY. WE MUST DO WHATEVER WE CAN TO HELP ALLEVIATE THIS SITUATION. IT IS OUR EXPERIENCE THAT THE ADOPTION OF WAITING PERIODS HELPS ELIMINATE SENSELESS VIOLENCE PERPETRATED BY FIREARMS.

WE DON'T THINK ANYONE HERE WOULD DISPUTE THAT THERE ARE CERTAIN PEOPLE WHO SIMPLY SHOULD NOT BE ALLOWED TO BUY GUNS --- CONVICTED CRIMINALS, MENTAL INCOMPETENTS, DRUG ABUSERS, ETC. LAST YEAR, CONGRESS ACTED TO TIGHTEN UP THE LANGUAGE THAT DISQUALIFIES SUCH PERSONS FROM BUYING FIREARMS. BUT SUCH LAWS ARE MEANINGLESS IF WE MERELY TAKE THE WORD OF THE PURCHASER THAT HE OR SHE IS

ELIGIBLE TO PURCHASE A FIREARM WITHOUT GIVING THE SELLER TIME TO CHECK OUT THE INFORMATION SUPPLIED. WE ARE NOT SO NAIVE AS TO BELIEVE THAT WE CAN KEEP GUNS OUT OF EVERY DANGEROUS OR CRIMINAL HAND, BUT WE CAN KEEP THEM OUT OF SOME.

WE AT IACP HAVE HEARD MAINLY TWO CRITICISMS OF THIS KIND OF LEGISLATION: 1) THESE BILLS DON'T WORK; AND 2) THIS IS JUST THE BEGINNING OF MORE PERVASIVE AND INTRUSIVE GUN CONTROL LEGISLATION. WE DON'T THINK EITHER ONE OF THESE ARGUMENTS IS TRUE.

FIRSTLY, OF COURSE THESE BILLS WORK. THEY GIVE LAW ENFORCEMENT A CHANCE TO CHECK THE BACKGROUNDS OF PERSONS BEFORE THEY ARE ALLOWED TO PURCHASE A HANDGUN. AND WHEN WE CHECK THE BACKGROUNDS OF PERSONS WANTING TO PURCHASE HANDGUNS, WE SOMETIME FIND OUT STARTLING THINGS:

*IN THE 19 YEARS THAT NEW JERSEY HAS REQUIRED A BACKGROUND CHECK FOR HANDGUN PURCHASES, 10,000 CONVICTED FELONS HAVE BEEN CAUGHT TRYING TO BUY HANDGUNS, ACCORDING TO THE SUPERINTENDENT OF THE NEW JERSEY STATE POLICE.

*THE CHIEF OF POLICE OF COLUMBUS, GEORGIA SAYS THAT THE CITY'S THREE-DAY WAITING PERIOD CATCHES TWO FELONS A WEEK TRYING TO BUY HANDGUNS.

*A MEMPHIS, TENNESSEE POLICE SERGEANT REPORTS THAT THE STATE'S 15 DAY WAITING PERIOD SCREENS OUT ABOUT 50 APPLICANTS A MONTH, MOST OF WHOM HAVE

CRIMINAL RECORDS.

*THE CALIFORNIA ATTORNEY GENERAL'S OFFICE SAYS THAT THE STATE'S 15 DAY WAITING PERIOD CAUGHT 1,200 PROHIBITED HANDGUN BUYERS IN ONE YEAR ALONE.

*IN MARYLAND, THE STATE POLICE REPORT THAT EVERY YEAR HUNDREDS OF INDIVIDUALS WITH CRIMINAL RECORDS ARE CAUGHT ATTEMPTING TO PURCHASE HANDGUNS THROUGH GUN DEALERS.

THE EVIDENCE SEEMS VERY CLEAR TO US THAT THIS TYPE OF BILL WORKS AND GIVES US ANOTHER TOOL TO PROTECT AND PROMOTE PUBLIC SAFETY.

CONCERNING THE SECOND ARGUMENT AGAINST THIS TYPE OF BILL, WE AT IACP DO NOT THINK THAT THIS IS THE BEGINNING OF MORE PERVASIVE HANDGUN CONTROL LEGISLATION. THIS TYPE OF BILL **ONLY** HURTS THE CRIMINAL - AND OTHERS WHO ARE PROHIBITED BY LAW FROM CARRYING HANDGUNS. AS I HAVE SAID, IACP SUPPORTS THE RIGHT OF ALL AMERICANS TO KEEP AND HAVE ARMS, AND THE LEGITIMATE SPORTING, RECREATIONAL, LAW ENFORCEMENT AND PRIVATE SECURITY USES OF FIREARMS. WE DO NOT THINK THAT THE MAJORITY OF AMERICANS WILL STAND BY AND WATCH THE CONSTITUTIONAL RIGHT TO KEEP AND HAVE GUNS DISMANTLED. BUT THE CONSTITUTION DOES NOT SAY THAT YOU HAVE THE RIGHT TO KEEP AND HAVE GUNS **IMMEDIATELY.** A SEVEN DAY WAITING PERIOD DOES NOT INFRINGE UPON OUR CONSTITUTIONAL RIGHTS.

ALTHOUGH THE FEIGHAN BILL, AS INTRODUCED, WILL GIVE LOCAL LAW ENFORCEMENT OFFICIALS THE DISCRETION AS TO WHETHER TO CONDUCT A BACKGROUND CHECK IN A PARTICULAR CASE, IACP WILL ENCOURAGE ITS MEMBERS TO CONDUCT A CHECK IN EVERY INSTANCE.

A WAITING PERIOD IS NOT ONLY IMPORTANT AS A TIME TO CONDUCT A BACKGROUND CHECK, IT ALSO SERVES AS A COOLING DOWN PERIOD IN WHICH A PERSON WHO TRIES TO PURCHASE A GUN DURING THE HEAT OF ANGER HAS TIME TO CALM DOWN AND RETHINK WHAT HE INTENDED TO DO WITH THE GUN.

IF WE CAN SAVE JUST ONE LIFE BY REQUIRING A WAITING PERIOD, THE MINIMAL INCONVENIENCE TO LAW ABIDING GUN PURCHASERS AND TO THE POLICE DEPARTMENTS WILL BE WELL WORTH IT.

THANK YOU VERY MUCH FOR CONSIDERING OUR VIEWS ON THIS MATTER. I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS YOU MIGHT HAVE.

Mr. HUGHES. Thank you, Chief.

I think what we will do is we will hear from all the witnesses and then we will go to questions.

Mr. WHALEN. Thank you.

Mr. HUGHES. Colonel Grumney, welcome.

TESTIMONY OF LT. COL. RICHARD G. GRUMNEY, ASSISTANT SUPERINTENDENT, OHIO STATE HIGHWAY PATROL

Col. GRUMNEY. Mr. Chairman, subcommittee members, I am Lt. Col. Richard Grumney, Assistant Superintendent of the Ohio State Highway Patrol. I am here today on behalf of Col. Jack Walsh, Superintendent of the Highway Patrol, who was unable to be here due to a previous commitment.

I would like to add the Ohio State Highway Patrol to the list of organizations that give our unqualified support to the Handgun Prevention Act, which would establish a 7-day waiting period for prospective handgun purchasers.

It is very important that law enforcement officials be given an opportunity to check the backgrounds of persons who pose a potential threat to police officers and to the public they serve. We do support the rights of law-abiding citizens to own firearms. We are, therefore, very much in favor of any legislation that will make it more difficult for convicted felons and mentally disturbed persons and mentally incompetent individuals to purchase handguns.

The Ohio Highway Patrol as a law enforcement agency will in all probability not be a part of the system that conducts that kind of investigation of handgun purchasers. This will undoubtedly be the function of the local and county law enforcement agencies. However, regardless of our involvement in the handgun purchasing process, we will be one of the principal beneficiaries of this legislation that will help deny the criminal access to a handgun.

Ohio Patrol is a rural traffic law enforcement agency. Our officers generally operate alone on some very remote stretches of rural highways. On the average, our troopers come in contact with nearly two and a half million motorists each year. The vast majority are law-abiding citizens who would never think of carrying a weapon in their vehicle or who never intentionally would cause harm to a police officer.

There are, however, a sizable number of persons contacted by officers who commit serious crimes and are capable of harming other people with the slightest provocation. Patrol troopers encounter about 300 felons each year for a range of crimes committed in other Ohio jurisdictions or other States. These fugitives are wanted for crimes that include murder, kidnapping, armed robbery, rape, and escape from prison.

When armed with a handgun, they constitute an extremely serious threat to the safety of our officers.

In just the past 5 years, Ohio troopers have arrested 2,118 persons carrying concealed weapons. Most of these weapons were, as you might expect, handguns. Many of these people carrying concealed weapons were wanted criminals I just referred to. Over half of them were under the influence of alcohol or drugs. Their ability

to recognize police authority and act in an appropriate lawful manner were obviously impaired.

These individuals are a clear and present danger to law enforcement officials everywhere. It is to everyone's best interests to deny people such as these easy lawful access to handguns.

Highway troopers are, by the very nature of their jobs, vulnerable to attack by irresponsible criminals who often have access to legally-purchased firearms. We can provide our troopers with the best possible equipment and give them the most up-to-date survival training available to professionals. However, there will always be factors beyond our immediate control which will tend to increase the risks of the job.

Your support for this legislation will go a long way towards reducing that risk to the lowest possible level for all law enforcement officers.

Thank you very much for considering the Ohio State Highway Patrol's views on this matter.

Mr. HUGHES. Thank you, Colonel.

[Statement of Mr. Grumney follows:]

STATEMENT OF LT. COLONEL RICHARD G. GRUMNEY
ASSISTANT SUPERINTENDENT, OHIO STATE HIGHWAY PATROL

FOR

COLONEL JACK WALSH
SUPERINTENDENT, OHIO STATE HIGHWAY PATROL

BEFORE THE

HOUSE COMMITTEE ON THE JUDICIARY'S
SUBCOMMITTEE ON CRIME
NOVEMBER 30, 1987
CLEVELAND, OHIO

ON

THE HANDGUN VIOLENCE PREVENTION ACT: H.R. 975/S.466

Mr. Chairman and committee members. I am Lieutenant Colonel Richard G. Grumney, Assistant Superintendent of the Ohio State Highway Patrol. I am here today on behalf of Colonel Jack Walsh, Superintendent of the Ohio State Highway Patrol, who could not be with us due to another previous commitment.

I would like to add the Ohio State Highway Patrol to the list of organizations that give our unqualified support to the Handgun Violence Prevention Act (H.R. 975/S.466) which would establish a seven-day waiting period for prospective handgun purchasers. It is very important that law enforcement officials be given the opportunity to check the backgrounds of persons who pose a potential threat to police officers and to the public they serve.

We too support the right of law abiding citizens to own firearms. We are, however, very much in favor of any legislation that will make it more difficult for convicted felons, emotionally disturbed persons and mentally incompetent individuals to purchase handguns.

The Ohio State Highway Patrol as a traffic law enforcement agency will in all probability not be a part of the system that will conduct background investigations of handgun purchasers. This will undoubtedly remain a very proper function of local and county law enforcement agencies. However, regardless of our involvement in the handgun purchasing process, we will be one of the principal beneficiaries of this legislation that will help deny the criminal access to handguns.

The Ohio Patrol is a rural traffic law enforcement agency. Our officers generally operate alone on some fairly remote stretches of rural highways. On the average, troopers come in contact with nearly two and a half million motorists each year.

The vast majority are law abiding citizens who would never think of carrying a weapon in their vehicle and who would never intentionally do harm to a police officer. There are, however a sizeable number of persons contacted by our officers who have committed serious crimes or are capable of harming other people with the slightest provocation.

Patrol troopers apprehend about three hundred felons each year who are wanted for crimes committed in other Ohio jurisdictions or other states. These fugitives are wanted for crimes that include murder, kidnapping, armed robbery, rape, and escape from prison. Each has demonstrated his or her potential for violent action. When armed with a handgun, they constitute an extremely serious threat to the safety of our officers.

In just the past five years, troopers have arrested 2,118 persons for carrying concealed weapons. Most of these weapons were, as you might expect, handguns. Many of these people carrying concealed weapons were the wanted criminals I just referred to. Over half of them were under the influence of alcohol or drugs. Their abilities to recognize police authority and act in the appropriate lawful manner were obviously impaired. These individuals are a clear and present danger to law enforcement officers everywhere. It is in everyone's best interest to deny people such as these, easy, lawful access to handguns.

Highway Patrol Troopers are by the very nature of their jobs vulnerable to attack by irresponsible criminals who often have access to legally purchased firearms. We can provide our troopers with the best possible equipment and give them the most up-to-date survival training available to the profession. However, there will always be factors beyond our immediate control which will tend to increase the risks of the job. Your support for this legislation will go a long way toward reducing that risk to the lowest possible level for all law enforcement officers.

Thank you very much for considering the Ohio State Highway Patrol's views on this matter.

Mr. HUGHES. Dr. Adelson, we are delighted to have you with us this morning.

TESTIMONY OF DR. LESTER ADELSON, FORMER CHIEF DEPUTY PATHOLOGIST, CORONER'S OFFICE, CUYAHOGA COUNTY

Dr. ADELSON. Thank you, gentlemen.

I am the former Chief Deputy Coroner of Cuyahoga County. I retired a couple of months ago.

I want to speak to you on the basis of my experience in the Coroner's Office, where I spent half my life, and I want to thank you all for the opportunity to testify before the subcommittee.

I am not a legally-minded person, and I will leave it to others to discuss the legalities. I will speak as a physician and about the moralities. The criminal law represents the collective moral judgment of society.

Too many people in our community in the past 37 years have been victims of fatal bullets from handguns, a representation of the sad state of affairs in our country from Coast to Coast. From the mortality data, we can extrapolate to the non-fatal handgun incidents which lead to lifelong disability so vividly exemplified by Mr. James Brady and Governor George Wallace.

The life-destroying and life-crippling tragedies resulting from the misuse of handguns are a blotch on our national face. I have submitted to Mr. Eric Sterling of your subcommittee several published items that deal with our experience and our professional response to these seemingly never-ending assaults to our sense of humanity.

The message in these publications is as true today as it was previously. I suggest that you examine them closely. I strongly support legislation, such as H.R. 975, Representative Feighan's bill, and I urge the committee to report favorably on this piece of proposed legislation which deals not with some type of psycho-philosophic abstraction but with the harsh realities of day-to-day living and day-to-day dying in the land of the free and the home of the brave.

The sanctity of all human life cries out for your positive approach and vigorous intervention in this critical matter.

Thank you.

Mr. HUGHES. Thank you, Dr. Adelson.

[Applause.]

[Statement of Mr. Adelson follows:]

STATEMENT

Testimony of Dr. Lester Adelson Before the Subcommittee on Crime of the Committee on the Judiciary, United States House of Representatives
Cleveland, Ohio 30 November 1987

Gentlemen:

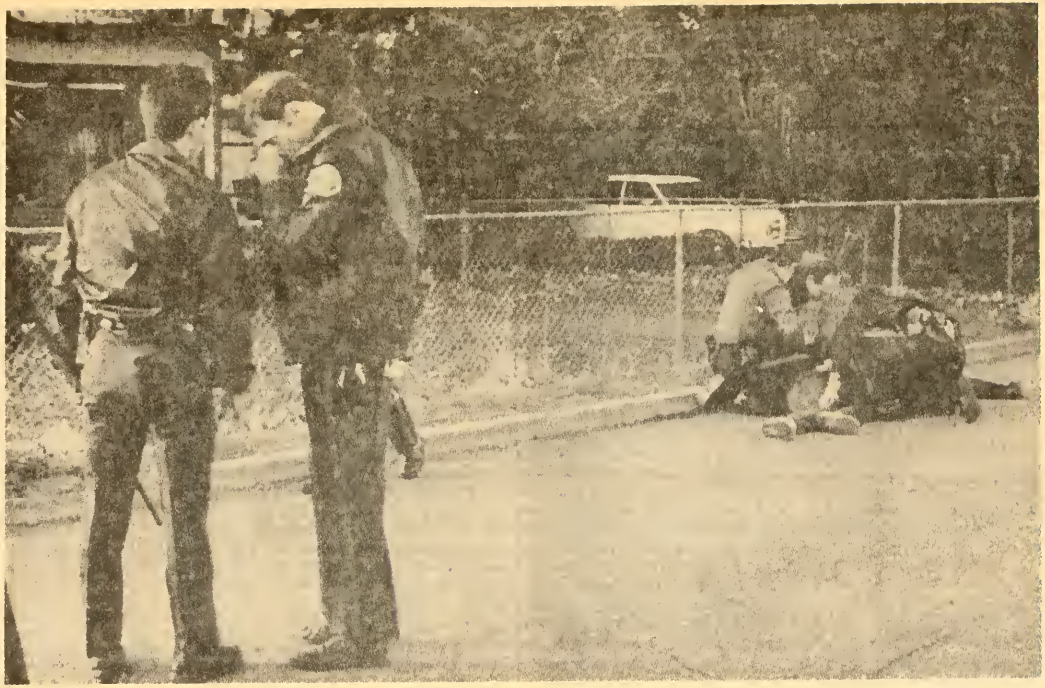
Thank you for the opportunity to testify before this subcommittee.

Through my work at the Cuyahoga County Coroner's Office as Chief Deputy Coroner for the past 37 years (I retired on the first of October of this year.), I have become all too familiar with the fatal toll which handguns exact from our community, a toll representative of the same sad state of affairs in our country from coast to coast. And from the fatalities we can extrapolate to the non-fatal incidients which lead to life-long disability so vividly and disturbingly exemplified by Mr. James Brady and Governor George Wallace. The life-destroying and life-crippling tragedies resulting from the misuse of handguns are a blotch on our national face.

I have submitted to Mr. Eric Sterling of your Committee several published items which detail our experience and our professional response to these seemingly never-ending insults to our sense of humanity. The message in these publications is as true today as it was when they first appeared in print. I earnestly suggest that you examine these closely.

I strongly support legislation such as HR 975, Representative Feighan's bill, and urge the committee to report favorably on this piece of proposed legislation which deals not with some type of psycho-philosophic abstraction but rather with the harsh realities of day-to-day living and day-day-dying in the land of the free and the home of the brave.

The sanctity of human life cries out for your positive approach and vigorous intervention in this truly critical matter.



STEVE NEHL/PORTLAND OREGONIAN

Aftermath

PD 11/29/87

A Portland, Ore., policeman, second from left, weeps after he and two other policemen shot and killed a 14-year-old boy who had fired a rifle at them Friday. The incident began when Neva Bauman called police and said her son, Timothy, was "uncontrollable and might have a gun."

FIREARMS FATALITIES AND THE CORONER

A Brief Dissertation on Human Folly, Stupidity and Viciousness

1967

The weapon most frequently used with homicidal intent in modern American urban society is a firearm, whether this be a revolver, automatic pistol, rifle, shotgun, submachine gun or some variety of home-made weapon such as a "zip gun". In cold fact, the number of homicides (criminal and justifiable) committed with firearms in the United States exceeds the combined total of homicides committed by all other modalities of violence. A firearm was the lethal instrumentality in 60% of the homicides perpetrated in this country in 1966, accounting for more than 6500 deaths. (Handguns were the fatal weapons in 44% of all homicides, rifles in 7% and shotguns in 9%.) Moreover, a firearm was involved in more than 43,500 aggravated assaults, that is, assaults in which the attempt to kill was unsuccessful. By way of comparison, cutting and stabbing accounted for 23% of all American homicides in 1966, personal weapons, i.e., fists, feet and hands, were utilized in 9%, and other weapons and techniques, e.g., hammers, clubs, hatchets, poison, arson, drowning, explosives, etc. were implicated in the remainder.

Acknowledgement: The author wishes to express his appreciation to Chief Michael J. Blackwell of the Cleveland Police Department for making available data dealing with line-of-duty deaths in his organization. The figures for homicides in the United States (including those relating to police officers) are taken from "Crime in the United States, Uniform Crime Reports 1966", issued by the Federal Bureau of Investigation.

48

The foregoing table indicates the type of weapon or technique involved in more than 1700 homicides which were committed in Cuyahoga County during the period indicated. The agreement between the data obtained over a 16 year interval in our community and the figures for the United States as a whole for 1966 is striking, especially insofar as they pertain to homicides resulting from firearms (U.S. as a whole - 60%, Cuyahoga County - 58.4%) and from those produced by edged and pointed weapons (U.S. as a whole - 23%, Cuyahoga County - 23.9%).

It is of interest, and more than mere coincidence, that all four American presidents killed while they were in office (Lincoln, Garfield, McKinley and Kennedy) were the victims of fatal firearms injuries, and attempted assassinations of other chief executives (Franklin Delano Roosevelt and Harry S. Truman) have also involved the use of firearms. The simplest and most obvious explanation for the use of firearms in these dastardly acts and in the majority of culpable homicides in general, whether they arise as part of or in connection with armed robbery, burglary, family quarrel, drunken argument or skulking murder, is that a firearm, wrongfully and illegally used, is a coward's weapon. It permits the assailant to kill or maim his victim from such a distance that his own safety is not immediately jeopardized. (A shotgun can kill or injure a human victim within a range of 150-300 feet; the lethal range of a rifle depends on the type of weapon and the variety of ammunition. Thus, a ".22 short" can kill or maim at distances up to three-fourths of a mile, while "high powered" ammunition can be dangerous or fatal for distances up to three and a half miles.) A gun is thus the ideal and favorite weapon of the political assassin. Other than the poisoning homicide and such infrequently encountered criminally-caused deaths as those resulting from time bombs, infernal machines and arson, practically every other variety of homicidal violence requires that assailant and victim come either to within arm's length or into actual grips with one another. This is true whether the slaying involves manual, pedal or instrumental assault, asphyxia by manual strangulation (throttling), ligature (garotting) or other cervical compression techniques, or cutting and stabbing. (Fatal injuries by knives which have been thrown at, rather than manually plunged, into the victim are exceedingly rare in real life despite their frequency in the fictional "reel" world of the Hollywood variety.)

The ready availability of firearms by purchase in the United States is an open invitation to their wrongful use by the neurotic, the psychotic, and the maladjusted as well as by the professional and occasional criminal. A firearm is the instrument of death in virtually every murder of a law enforcement officer. In 1966, 55 of 57 law enforcement officers killed in the line of duty throughout the United States were shot to death. These figures are in keeping with the national pattern, noted consistently since 1960, which reveals that a firearm has been the murder weapon in 96% of 335 homicides in which the victims were police officers carrying out their duties.

The figures in our own community reflect the same disturbing picture. Since June 1875, 79 Cleveland Police Officers have died in line of duty, 26 from accidental injuries sustained in traffic mishaps and the like, and 53 from homicidal violence. No less than 50 of the 53 were shot to death, while only two died from beatings and one was fatally stabbed.

The Constitutional guarantee contained in the Second Amendment (Article II, The Bill of Rights) "A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed," was enacted at the end of the 18th century when its provisions were felt to be essential for the survival of a struggling infant nation, beset on all sides by actual and potential enemies. Moreover,

the average citizen did not then enjoy the type of police protection which we all have today when expert help is available at practically a moment's notice, thanks to modern communications and police mobility. Consequently, he required some means of protecting the sanctity of his home and the personal safety of himself and his family. These same provisions are frequently invoked today by many persons as a justification for them to keep firearms in their homes in the midst of the 20th century when the need for a "well-regulated militia" has long since ceased to exist and when local law enforcement representatives are on hand to give every citizen, his family and his home every necessary protection.

The inevitable result of the large number of firearms in the hands of the wrong persons is a depressingly long, tragic list of suicides and fatal accidents (over and above many serious non-fatal incidents) as well as homicides and criminal, non-fatal assaults with deadly weapons. It is quite certain that a large proportion of these tragic incidents would not have occurred had a loaded gun not been conveniently at hand. Obviously, non-availability of guns will not eliminate all suicides and homicides. These violent deaths have been taking place since the dawn of recorded history, long before the invention of gunpowder. Indeed, the first crime recorded in the Bible was a homicide (..."Cain rose up against Abel his brother, and slew him. " Genesis, Chapter 4, Verse 8), and however Cain did kill his brother, he certainly did not shoot him. (The Bible does not indicate the modality of violence implicated in this fratricide.) However, it is a fact that a substantial number of murders, manslaughters and suicides would not have been committed had not a firearm with its peculiarly lethal potentiality been readily accessible to the perpetrator of the crime or of felo-de-se. Suffice it to say that J. Edgar Hoover and many other responsible citizens have called the use (or rather abuse) of firearms a national disgrace and a most serious problem in the United States today with its constantly mounting incidence of crime.

It is of interest and illuminating to compare and contrast the distribution of gunshot fatalities in a typical metropolitan American community such as Cuyahoga County with what is observed in the British Isles. During a recent five year period, there were 1562 firearms deaths in Great Britain of which 87 (5.6%) were homicides, 449 (28.7%) were accidents and 1026 (65.7%) were suicides. During the 16 year period 1951 through 1966 there were 1915 fatalities from firearms in our community. Homicides claimed 995 (52%) of the victims, accidents accounted for 108 (5.6%) and the remaining 812 (42.4%) were suicides. Put in another way, more than one of every two fatal gunshot incidents in the greater Cleveland area is homicidal in origin, whereas in the British Isles, only slightly more than one in every 20 gunshot fatalities results from a criminal act.

The 1915 firearms deaths in Cuyahoga County referred to in the previous paragraph can be regarded from an additional, thought-provoking point of view. Careless handling of loaded guns was responsible for 108 (1.4%) of 7796 fatal accidents (traffic and vehicular mishaps are not included in this classification), and a firearm was used by 812 (30.3%) of 2679 persons who took their own lives. (We have already pointed out earlier in this discussion that 995 (58.4%) of 1795 homicide victims were shot to death.)

Thoughtful consideration of the preceding facts and figures raises the sobering question, "How much longer must the community wait and how many more lives must be lost from firearms, whether the gun is fired with suicidal, accidental or homicidal intent, before effective legislation is forthcoming which will exert a real measure of worthwhile control over these presently all too readily-available, terrible, death-dealing wapons?"

Accidental deaths

Lester Adelson

Handguns and Criminal Violence

We and the vast majority of our fellow-citizens, regardless of our attitudes toward "gun control," earnestly desire to live in a peaceful and orderly society, administered by competent and upright government officials, and refereed by a wise and impartial judiciary. The Preamble to our Federal Constitution states straightforwardly and unmistakably that one of the motivating factors for creating this bulwark of freedom and democracy is "to insure domestic tranquility." "Domestic tranquility" to me means that we and our neighbors are safe in our homes, on our streets and by-ways, and in our places of work and worship. The ready availability and subsequent misuse of firearms, especially handguns (i.e., pistols and revolvers) in twentieth-century America has made a mockery of our efforts to attain, let alone insure, our constitutional goal of creating a peaceful and peace-loving nation.

The Dimensions of Current Criminal Handgun Violence in America and Cuyahoga County

Any objective approach to the handgun situation (I will avoid calling it a "problem" or a "tragedy" for the moment) demands that we deal objectively and accurately with the realities of this emotionally laden matter. Any attempt to function without facts becomes an exercise in futility.

In this country, firearms, and particularly handguns, are currently the lethal instruments in thousands of feloniously caused deaths annually. The October, 1984, issue of the *FBI Law Enforcement Bulletin* informs us that 19,308 homicides occurred in our country during the 1983 calendar year, a rate of 8 per 100,000 inhabitants. This figure indicates that every 27 minutes one of our fellow-citizens fell victim to lethal criminal violence. According to the *Bulletin*, the dominant weapon in these homicides was a firearm.

By a different count, 7,227 of our neighbors and friends were feloniously slain with handguns in 1984, an average of 20 each day of the year ("Crime in the U.S.," *1984 FBI Uniform Crime Report*). During our peak seven years' involvement in the Vietnam War, more than 40,000 American soldiers were killed in action. During this same period, more than 50,000 American civilians were blown away with handguns here at home. Indeed, it has been calculated that we have lost more American civilian lives to firearms than have been lost as military casualties in all of our "big" and "little" wars from the Revolution through the Vietnam conflict.

My own community, Cuyahoga County, is an accurate reflection of what is happening nationally. The Cuyahoga County Coroner's Office investigates, records, and tabulates the cause and manner of all violent (i.e., unnatural or traumatic) deaths (suicides, homicides, accidents, and

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Lester Adelson has worked at the Cuyahoga County Coroner's Office, as pathologist and Chief Deputy Coroner, for thirty-five years. Although he deals every day with death, his real mission, as he sees it, is the preservation of life. To this end, he is strongly committed to the issue of handgun control. "Too often I have to look at the body of someone—a young man, an elderly woman, a baby—who is dead because of a gun in the wrong hands." Dr. Adelson received his B.A. from Harvard College in 1935, the M.D. from Tufts College Medical School, and did his internship and residency at John J. McCook Memorial Hospital in Hartford, Connecticut. He interrupted his medical training only to serve in the military during World War II. He has published over 100 papers in national and international journals, including one that explores the sudden, unexpected and violent deaths in Hamlet: *"The Coroner of Elsinore"* (The New England Journal of Medicine, *1960).*

demise from violence of undetermined origin) which occur or are discovered in this county.

During the ten-year period from 1974 through 1983, the Coroner's Office investigated 2,941 homicides. Seventy-six percent (2,228) or slightly more than three of every four victims were slain with firearms—revolvers, automatic pistols, submachine guns, rifles, and shotguns. Handguns (revolvers or automatic pistols) were the fatal instruments in 1,916 instances. This number represents 65% of *all* homicides and 86% of all death-dealing firearms fatalities. In other words, handguns accounted for more homicides than all other means of violence combined—more than all edged and pointed weapons (knives, daggers, ice picks, and broken bottles), blunt weapons (clubs, baseball bats, pipes, fists, feet, and the butt ends of guns), asphyxial techniques (hands and ligatures), poisons, fires, explosives, drowning, and rifles and shotguns.

Included in the foregoing 2,941 Cuyahoga County homicides are 251 (8.5%) which were ruled "justifiable." Here the perpetrator was either a private citizen defending his/her own or someone else's life, the privacy of his/her home, or the integrity of his/her personal belongings, or he was a law enforcement officer who killed during legal intervention. If we subtract these 251 non-culpable deaths from the overall total, we are faced with 2,691 murders and manslaughters, a truly disturbing number of unlawfully destroyed human beings. It is of interest that 236 (94%) of the 251 justifiable homicides involved firearms, and of these 195 were handguns. Pistols and revolvers thus accounted for 78% of this portion of the

Murder Victims, Type of Weapons Used, 1980-1984

Weapon	1980	1981	1982	1983	1984
Total	21,860	20,053	19,485	18,673	16,689
Total Firearms	13,650	12,523	11,721	10,895	9,819
Handguns	10,012	9,193	8,474	8,193	7,277
Rifles	1,124	968	1,017	831	763
Shotguns	1,636	1,528	1,377	1,243	1,154
Other guns	53	82	38	19	18
Firearms–not stated	825	752	815	609	607
Cutting or stabbing instruments	4,212	3,886	4,065	4,075	3,540
Blunt objects (clubs, hammers, etc.)	1,094	1,038	957	1,062	973
Personal weapons (hands, fists, feet, etc.)[1]	1,282	1,132	1,298	1,280	1,090
Poison	17	12	19	20	6
Explosives	21	16	12	5	8
Fire	291	258	279	216	192
Narcotics	12	20	16	17	19
Drowning	49	51	52	40	44
Strangulation	401	337	359	376	317
Asphyxiation	104	150	108	123	111
Other weapons or weapons not stated	727	630	599	564	570

[1]Pushed is included in personal weapons.

According to the latest FBI information, handguns were used for 44 percent of the murders committed in the U.S. in 1984. The above table is reproduced from *Crime in the United States*, Federal Bureau of Investigation, 1985.

overall deadly harvest. It is worth noting that for every *justifiable* firearm fatality which occurred in our county, there were six *accidental* firearm deaths.

We must never overlook the inescapable fact that homicide is a unique crime in that it is *always* irreversible and uncorrectable. Stolen jewels, autos, furs, or television sets may be recovered, or one may earn enough money to ultimately replace them. Embezzled money may be returned or covered by insurance. Although rape leaves a permanent scar on the personality and psyche of the victim, life does go on with at least the hope of a better future. But we know only too well that death is permanent, irreversible, and non-remediable.

The havoc created by criminally misused handguns goes far beyond the number of fatalities. Gunshot deaths are the tip of the iceberg compared to the total number of injuries. Many persons who are unlawfully shot do *not* die: they may be left permanently paralyzed, as is former Governor George Wallace, whose spinal cord was severed by the bullet from Arthur Bremer's gun, and Mr. James Brady, President Reagan's press secretary, whose skull and brain were traumatized by the missile fired by John W. Hinckley, Jr., with resultant lifelong disability.

Thanks to advances in medical care achieved over the past several decades, many gunshot victims survive today who formerly would have succumbed either almost immediately or slowly and agonizingly. What would today's gunshot homicide toll be if we had our current assault rate combined with the medical skills and techniques available in the days before World War II and the 1950s?

It has been established with certainty that the frequency of criminally motivated pistol and revolver incidents is completely and utterly dependent on the shooter's ready access to a firearm. Again, statistics establish incontrovertibly that when fewer handguns are at hand (and thus *in* hand), many fewer homicidal and non-fatal shootings occur (*New Republic*, November 16, 1978). Canada, Great Britain, Scandinavia, Germany—industrialized Western Europe in general—and Japan, all of whom strictly control access to and availability of firearms of all kinds, have homicide rates which are but tiny fractions of what we who live (and die) in "the land of the free and the home of the brave" endure every day.

The foregoing are the abstract dimensions of the problem. But statistics don't bleed. The impersonal numbers must be translated into hundreds of husbands and fathers torn away from their wives and children, mothers and wives snatched from their offspring and husbands, children and youngsters carried off in the prime of life, and law-enforcement officers killed in the line of duty.

Another pertinent fact about all firearms is their potential longevity. If a gun is properly looked after (that is, cleaned and oiled regularly and not abused), its life expectancy is many years. A significant proportion of the firearms used to commit crimes in our country are decades old. If we manufacture, import, or assemble no additional guns in this country for the next 20 or 30 years, we have on hand a sufficient number of these weapons to decimate our population. Opponents of firearm regulation often repeat the slogan, "Guns don't kill people. People kill people." My response to this statement is, "Guns don't die. People die." And I never heard of a person shooting another person *without* a gun.

And guns are being "born" every minute. Again, the 1983 *FBI Report* tells us that over 2.6 million handguns were produced in the U.S. in 1982, an output of one revolver or pistol every 13 seconds. It is estimated that 60 million handguns are currently in circulation in America, and at the current rate of production, there will be 100 million in our country by the year 2000.

Every American president killed in office from Lincoln's assassination in Ford's Theater in Washington in 1865 through John Fitzgerald Kennedy's destruction in Dealy plaza in Dallas in 1963 was *shot*. Lincoln, Garfield, and McKinley were the victims of handguns. Kennedy was killed with an Italian military rifle. And attempted assassinations of other chief executives—Andrew Jackson, Franklin Delano Roosevelt, Harry S Truman, Gerald Ford, and Ronald Reagan—all involved handguns. No other western nation has had anything approaching the number of attempted and successful assassinations of their chief executives that we have had.

The Psychology and Psychopathology of the Shooter

The most reasonable explanation for the use of firearms in the majority of culpable homicides is that a gun, illegally used, is a coward's weapon. This is true whether the killing is committed in connection with a family argument, an act of political terrorism, an armed robbery, a drunken quarrel between friends, or a skulking assassination. With its peculiar lethality, a gun can instantly convert a disagreement into a death-spawning event. A handgun is effective at many feet, a shotgun at many yards, and a rifle can maim or kill at hundreds of yards. Because a gun can kill at a distance with an easy pull of the trigger, the slayer can destroy a fellow human creature with emotional detachment. Current euphemisms for murdering with a gun, such as "to blow away" or "to waste," reflect the killer's sense of wielding great power from a safe distance.

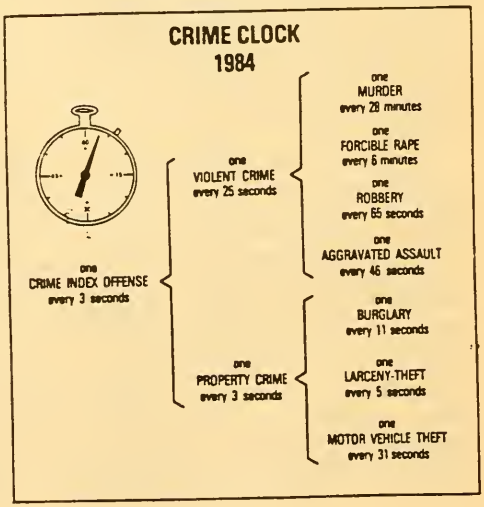
Facile access to firearms by legal purchase, leaving aside for the moment availability by borrowing or theft, is an invitation to their wrongful use by the neurotic, the psychotic, and the socially maladjusted as well as by the professional and the "occasional" criminal. Think for one moment of the havoc wrought by one James Huberty, a mentally disturbed person, with his arsenal of shoulder and handguns in a California McDonald's restaurant, a mass slaughter, killing twenty and wounding a dozen others, characterized as "the worst single-day slaughter by one man in U.S. history" (AP dispatch in the *Plain Dealer*, July 19, 1984).

The Etiology of Handgun Violence

Because I am a physician, I tend to think of many kinds of problems in medical terms. Accordingly, I have come to regard our national and local homicide and attempted homicide data as mortality and morbidity figures arising from an *epidemic* of lethal and potentially lethal violence which is engulfing our nation and our community. Like so many other epidemics which kill and cripple, this one is contagious. It spreads from person to person and from community to community. Violence begets more violence. It is a vicious spiral.

Of course the gun alone is not the sole and exclusive cause of unlawful gunshot incidents. Many diverse factors participate in the pathogenesis of an act of violence involving a loaded weapon.

There is our so-called national heritage ("The Gun That Won the West"), the constant depiction of violence by radio, television, motion pictures, and comic books, the disintegration of the nuclear and extended American family, the decline of public schools as an influence for good, the weakening of religious admonitory precepts, the



The FBI's "Crime Clock," from *Crime in the United States*, July 28, 1985.

miseries engendered by drugs, and the roles of local, state, and federal legislative bodies and courts in their dealings with the important fraction of our population which has developed a subculture of violence.

Superimposed on the use of handguns by the professional and occasional criminal is the inescapable fact that many persons become criminals for the first (and only) time in their lives when they unlawfully utilize a handgun to settle a family dispute or a disagreement with a friend or an acquaintance. A gun has the peculiar ability to transform in lightning-like fashion a quarrel into a killing and a spat into a slaying.

Solution(s) to the Handgun Problem: Prophylaxis and Therapy

How can we prevent or, more realistically, decrease the number of actual and potential destructive incidents whose single common factor is the malicious use of a handgun, the instrument that creates more havoc in our lives than all other means of violence combined?

Effective prophylaxis is the ideal. ("An ounce of prevention is worth a pound of cure.") And it is at this point that we part company from the National Rifle Association and from our fellow-citizens who support its tenets and doctrines. The proponents of handgun regulation ("control," *not* "confiscation") subscribe to the statement, "If these instruments of potential violent crime were more difficult to obtain, the number of fatal and non-fatal civilian gunshot casualties in our communities would be gratifyingly reduced."

The opponents of *meaningful* governmental firearms control aver that stricter statutory handgun regulation would *not* reduce violent crime, but that, rather, such controls would impose sanctions on non-criminal firearms owners while the criminal element in our society would remain armed and comparatively unaffected.

Choosing the best prophylactic measures need not require an either/or decision. The desired goal may be most promptly and efficaciously reached by an approach which utilizes a combination of all available effective procedures to help remove this blot on our national face.

Certain, severe punishment (i.e., legislative prohibition of probation for perpetrators of firearms crimes, longer prison sentences for those utilizing firearms in their predatory behavior, and capital punishment) *may* well have a deterrent effect on those who might be inclined to participate in unlawful activities involving a handgun or any other type of firearm. The enactment of such legislation, however, does *not* preclude the institution of legal safeguards which would decrease the opportunities to misuse a gun by realistically reducing the number of guns in every community. Always to be remembered is the fact that the ready availability of a gun frequently transforms a law-abiding person into a criminal. The Uzarevic tragedy in Cleveland wherein the assailant, a man with no police record whatsoever, shot and killed his former wife on Christmas Eve, shortly before she and their two sons were to go to church, is a vivid example of this life-shattering metamorphosis.

Severe and obligatory punitive measures are frequently not as effective *prophylactically* as we would wish. We need only recall the days of public execution of pickpockets two hundred years ago at Tyburn Prison, while other pickpockets were busily engaged amongst the spectators gawking at the poor wretches dangling at the ends of their ropes. Nevertheless we must accept the proposition that severe and certain punishment at least does not *encourage* criminal activity. Accordingly, it has an important place in society's armamentarium for fighting against this scourge.

But in addition to the foregoing approach, is it not advisable, or indeed mandatory, to institute whatever other reasonable safeguards would seem promising in helping to prevent the occurrence of such incidents? If there were significantly fewer (I will not say "no") handguns in our homes, automobile glove compartments, office desks, pockets, and purses, would there not inevitably be fewer instances of death and crippling by these lethal instruments?

Even a total absence of firearms will of course *not* eliminate homicide and non-fatal criminal assaults. People have been killing and hurting each other (and themselves) long before the Chinese invented gunpowder. (Indeed, if one is willing to overlook the seduction of Eve in the Garden of Eden,

homicide is the first crime mentioned in the Bible. Genesis 4:8 tells us that "Cain rose up and slew Abel his brother." Although the Bible does not tell us how Cain slew Abel, we can be certain that he didn't shoot him.) Still, even if we cannot totally eliminate the social disease of eruptive violence, should we not make every effort to mitigate its curse?

Sound legislation *must* be enacted to control the availability of handguns and ammunition to all persons. I subscribe wholeheartedly to the thesis that good laws, vigorously enforced and justly administered, are critical factors in this as in so many other aspects of our society. And good laws, well enforced, lead to the passing of better laws.

Ideally, such life- and limb-saving legislation should be federal in scope. Effective nationwide governmental regulation of handguns has not been forthcoming in the past, and there are no reliable indications that we will have it in the near or even distant future. When our Chief Executive, alive today only because superb medical care was instantly at hand after he had been wounded by his would-be assassin's bullet, states that he is opposed to "gun control," whatever form it may take, the paradox is clearly manifest.

Closer to home, the city council of Brookpark, Ohio, *unanimously* turned down an ordinance which would have made mandatory the issuing of a city permit for the acquisition and transfer of a handgun. "An audience of 130 cheered and applauded the decision" (*Plain Dealer*, December 16, 1981). And more recently, Cleveland Heights rejected a similar law in the spring of 1984. But where good and meaningful handgun control laws have been passed in this country (Massachusetts, Washington, D.C.), homicide rates have fallen significantly.

To educate the lawmakers, we must strive to develop a grass-roots movement among an informed, enlightened, and aroused electorate who will not only welcome but will demand the enactment of effective laws to control the deadly threats created by the handguns that are all too common in our communities. As someone ruefully observed, "In a democracy, people get the kind of government they deserve."

Although sound and enforceable legislation is essential to deal with handgun violence, good laws in themselves are not sufficient. Rather, we need a multi-pronged approach. We need education in our schools, we need guidance and good examples in our homes, and we need constant reiteration in our houses of worship that life is too precious to be squandered in today's profligate fashion.

The media, printed and electronic, have a vital role to play. And a "one-shot" type of involvement is worse than useless: constant repetition is required until the sanctity of all human life becomes an integral part of our community thinking. There must be a ceaseless effort to overcome the fallacious propaganda of those who preach that more guns in our homes, in our autos, and in the "right" hands means a better and longer life for all of us. The bench, the bar, the ministry, and the healing professions must unite to rectify the intolerable situation with which we live today.

This positive approach requires a persistent program that *never* ceases to demonstrate the reality of the never-ending threats to our "domestic tranquility" posed by the huge number of handguns in our society. A standing Task Force on Violence is unfortunately a *sine qua non* of our "peace time" society. The goddess of Violence is a strong and alluring siren. The secret of her power is engraved on her shield: "Let mankind persist in the belief that violence will cease by itself." She stands on a pedestal of granite, the pedestal of human indifference.

I am indebted to Ms. Liz Tidwell of the Statistical Department of our Coroner's Office for her patient and persistent assistance with the numerical portion of this exposition.

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Homicide and Suicide in a Metropolitan County

I. Long-Term Trends

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Because homicide represents the ultimate deterioration of personal interactions, its frequency in a given population furnishes an objective index of violent reactions to the cumulative stresses in the group. Moreover, problems generated by these tragic losses of life are larger than a simple summation of individual misery. Ultimately, a high rate of homicide disrupts almost every facet of society. Since homicide has such extensive social, legal, and medical ramifications, its study possesses an immediacy matched by comparatively few other aspects of life on the current scene in the United States.

Previous studies in Cleveland[1] and elsewhere[2-4] all show that the incidence of homicide is correlated with poverty, with an intimate acquaintance between victim and assailant, and with a preponderance of nonwhite male victims. A marked increase in the local and national homicide rates during the past decade prompted us to restudy homicide in the Cleveland area, partly in order to identify related and rapidly changing variables.

From the Laboratory of the Cuyahoga County Coroner's Office (Drs. Hirsch and Adelson), and the departments of pathology (Drs. Hirsch and Adelson), biology and biometry (Dr. Rushforth), and community health and medicine (Dr Ford), Case Western Reserve University, Cleveland.

Reprint requests to Cuyahoga County Coroner's Office, 2121 Adelbert Rd, Cleveland 44106 (Dr. Hirsch).

Before attempting to come to grips with some of the many questions and problems associated with the causes, adjudication, and, hopefully, prevention of homicide, an introductory survey of its dimensions and trends over a span of years will give a valuable perspective. This study, the first of a series, is a statistical analysis of homicide and suicide victims in Cuyahoga County, Ohio (Cleveland and suburbs), from 1938 to 1971 inclusive, a period encompassing the middle third of the 20th century. Suicide rates are included for comparison and contrast.

Methods

Cuyahoga County (county) is subdivided into the centrally located city of Cleveland (city) and an adjacent aggregate of 36 cities, 20 villages, and four townships (suburbs). The deaths of all homicide and suicide victims dying in Cuyahoga County are investigated by the Coroner's Office. Autopsies invariably are performed in homicide cases unless the slaying is abated by suicide of the killer (eg, the man shoots his wife and then turns the gun upon himself). Autopsies are done in suicide cases if there is any question about the circumstances surrounding death, if the cause of death is not demonstrable by viewing the body (eg, drug ingestion), if the decedent's family requests an autopsy, or if the victim was in detention when he killed himself. When the suicidal manner of death is obvious and the cause of death can be documented accurately by viewing the body (eg, contact-range gunshot wound of the head), autopsy is not performed; this is the case in approximately 65% of suicides. Criteria for the verdicts of homicide and suicide in this jurisdiction have been consistent over the entire study period because one man (Samuel R. Gerber, MD, LLB) has been the county coroner since 1936.

Fatalities are tabulated by geographic subdivisions of the county according to place of occurrence of the incident. Deaths in the Cleveland area where the injuries were sustained outside Cuyahoga County are

Table 1.—Geographic Distribution and Racial Composition of Population in Cuyahoga County, Ohio

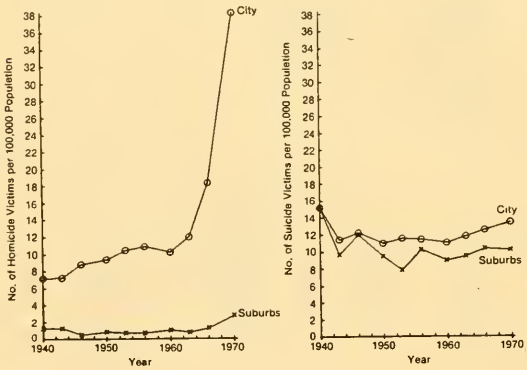
Year	Total County Population	% White	City Population	% White	Suburban Population	% White
1940	1,217,250	92.8	878,336	90.3	338,914	99.2
1950	1,389,532	89.0	914,808	83.7	474,724	99.2
1960	1,647,895	84.3	876,050	71.1	771,845	99.3
1965	...	...	810,858	65.5	...	...
1970	1,721,300	80.4	750,903	61.0	970,397	95.4

Table 2.—Annual Numbers of Homicide and Suicide Victims, Cuyahoga County, Ohio, 1938-1971

	Homicide			Suicide		
Year	Total* Homicides	City	Suburbs	Total* Suicides	City	Suburbs
1938	83	77	6	180	137	43
1939	85	78	7	189	138	51
1940	63	62	1	200	143	57
1941	54	49	3	167	120	47
1942	84	79	5	156	118	38
1943	66	64	2	137	98	39
1944	58	50	7	122	89	33
1945	70	68	2	148	105	42
1946	86	84	2	151	98	52
1947	90	87	2	184	128	56
1948	97	89	8	168	121	45
1949	95	89	4	167	111	56
1950	83	80	3	142	106	36
1951	91	88	3	128	84	44
1952	106	105	1	139	99	39
1953	98	96	2	141	97	43
1954	93	83	10	165	117	47
1955	82	80	1	184	118	64
956	128	119	9	170	93	73
1957	96	93	2	151	94	55
1958	95	84	9	161	107	54
1959	94	83	8	162	103	57
1960	102	91	11	186	98	83
1961	100	94	5	157	89	66
1962	74	69	5	180	105	71
1963	114	109	3	169	100	68
1964	137	122	12	192	91	97
1965	129	118	9	198	113	84
1966	166	154	11	197	97	100
1967	185	167	14	189	92	93
1968	210	191	15	214	104	103
1969	317	295	20	188	96	88
1970	310	282	26	223	110	108
1971	324	287	34	202	97	100
Total*	4,065	3,766	262	5,807	3,616	2,132

*Differences between totals and the sum of city and suburban numbers of homicides and suicides are "out of county" and "unknown" cases (37 homicides and 59 suicides). Traffic manslaughters are not included in the homicide tabulations.

Fig 1.–Homicide and suicide rates in Cleveland (city) and suburbs.



classified as "out of county." The latter classification and those instances in which the location of the incident are unknown comprise 0.9% of the homicides and 1.0% of the suicides in this study. Data supplementing the anatomic, toxicologic, and other objective findings of the coroner's staff are supplied by official police reports, eyewitness accounts, and hospital records.

We calculated homicide and suicide rates from data in the coroner's records (to determine the number of victims) and from population figures in Census Bureau publications. The decennial censuses (1940 through 1970) were used for city and suburban population sizes in the respective years, and for the city of Cleveland there was a special census in 1965. Traffic manslaughters are not included in the homicide data.

Total population figures are used as the denominator to determine all rates. This is entirely appropriate for nonjustifiable (culpable) homicide because the victims' ages range over the whole life-span. However, only with rare exceptions are victims of justifiable homicide or suicide younger than 15 years old; and, for practical purposes, only the population older than 15 could be considered at risk in calculating these rates. Nonetheless, in the interest of presenting data which are comparable to other published material, we calculated all rates on the basis of total population.

Justifiable homicides typically are those in which an individual kills while defending himself or his property or in which the decedent was committing a felony. In practice, a verdict of justifiable homicide is a consensus of the coroner and police prosecutor. The latter is an appointed official who is not an employee of the police department. If an incident is controversial, the county grand jury determines whether or not a homicide is justifiable.

Homicide and suicide rates are analyzed with respect to (1) location of the incident (city, suburbs), (2 and 3) sex and race of the victim, and (4) method of lethal violence (firearms, nonfirearms). Justifiable homicides were subdivided on the basis of the person who killed (police officer, civilian).

For purposes of graphic descrip-

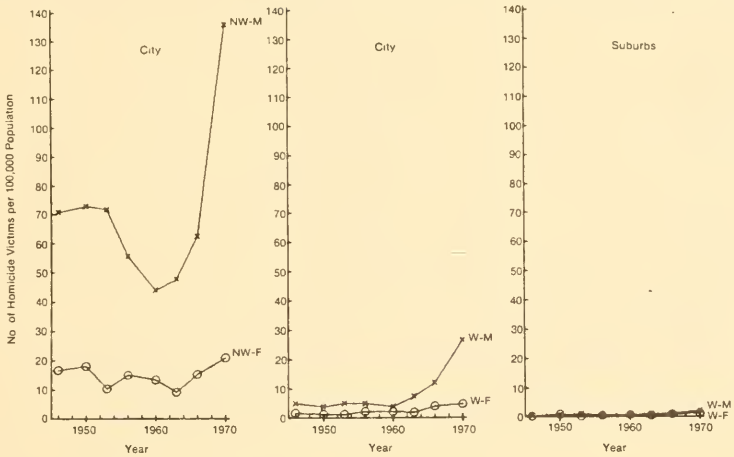
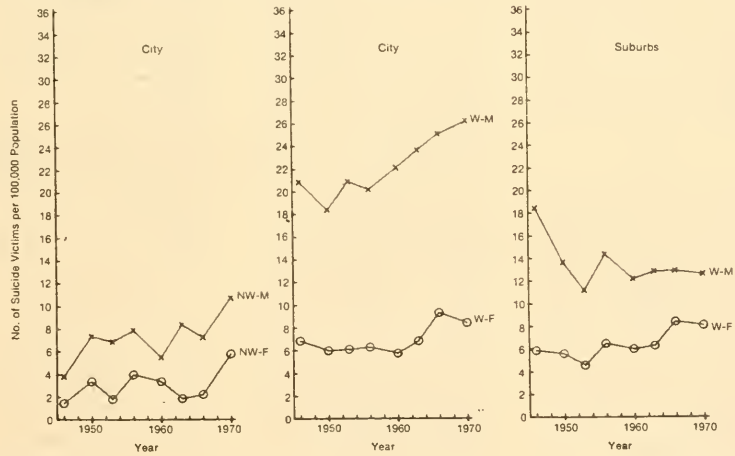


Fig 2.–Homicide rates in Cleveland (city) and suburbs by race-sex (NW, nonwhite; W, white; M, male; F, female).

Fig 3.–Suicide rates in Cleveland (city) and surburbs by race-sex (NW, nonwhite; W, white; M, male; F, female).



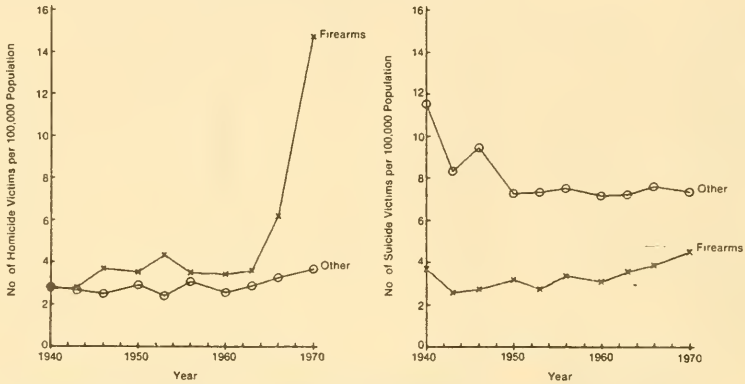


Fig 4.—Cuyahoga County homicide and suicide rates by firearms and all other methods combined.

tion, we used three-year average rates per 100,000 population. Estimates of the populations for individual years were calculated by linear interpolation of census figures. The rates center around each decade year and the third and sixth year of each decade for 1940 through 1970. (The eighth year of each decade is dropped.) This representation gives greater detail than a portrayal restricted to decade years, and random fluctuations in yearly rates are obliterated.

Results

County Population and Numbers of Victims.—Table 1 shows the population and racial composition of the city and suburbs for each decennial census from 1940 through 1970 and a special census in 1965 for the city. The city population peaked in 1950 while the suburban population has grown steadily since 1940. The nonwhite population was 99.4% Negro in 1940 and 97.3% Negro in 1970. Annual numbers of homicide and suicide victims in the city and suburbs are shown in Table 2.

Homicide and Suicide Rates.—Cuyahoga County homicide rates increased slightly during the 20-year period from 1940 to 1960, ranging from 5.5 to 6.6 victims per 100,000 population. (All rates are expressed per 100,000 population, and hereafter denominators are omitted.) By the mid-sixties the homicide rate reached 9.4 and then climbed precipitously to 18.4 by the end of the decade. The rate for the city of Cleveland rose gradually during the 1940 to 1960 interval. In the latter half of the sixties, the city rate began to climb dramatically, reaching 38.4 in 1970. Suburban homicide rates were much lower during the entire time span. They also increased in the sixties, and reached a high of 2.7 in 1970 (Fig 1).

Figure 1 also depicts changes in suicide rates for the city and suburbs. Suicide rates for the city are greater than those of the suburbs, but the difference, although statistically significant ($P=.05$, paired t-test), is much less marked.

Sex and Race of Victims.—Figure 2 shows sex- and race-specific homicide rates for the city of Cleveland and sex-specific homicide rates for suburban whites. Meaningful comparable rates for nonwhites in the suburbs cannot be calculated because the suburban population was more than 99% white until 1960. Nonwhite males always have had the highest homicide rate, and now this continues by a fivefold order of magnitude greater than the rate for white males. White females have always had the lowest homicide rate. Currently nonwhite females are homicide victims at a rate 4½ times that for white females. Homicide rates for white individuals in the city are much higher than for white suburbanites.

During the period from 1946 to 1953, the homicide rate for nonwhite males was high and relatively stable (average, 71.8). This rate declined in the mid and latter fifties to a value of 44.0 in 1960. However, the homicide rate for nonwhite males soared in the sixties, and reached 135.4 at the end of the decade. In the 1940 to 1960 interval, homicide rates for the white population in the city were relatively stable. An increased rate for white males began in the mid-sixties. The absolute magnitude of this rate is much less than that for nonwhite males, but the relative increase from 1960 to 1970 for white males was more than 600% compared to 200% for nonwhite males.

Sex- and race-specific suicide rates for the city and suburbs are shown in Fig 3. As with homicide, the nonwhite

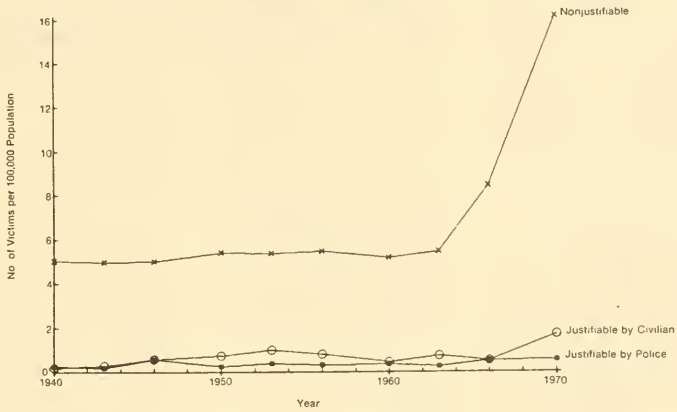


Fig 5.—Justifiable and nonjustifiable homicide rates in Cuyahoga County

suburban population was too small to calculate meaningful data. Rates for men are always higher than corresponding rates for women of the same race; and those for white persons are uniformly higher than Negro rates in both sexes. Suicide rates are similar for white women in the city and suburbs, but the rates for white men are much higher in the city than in the suburbs. In 1970, the suicide rate for white men in the city was double that of their suburban counterparts. During the past decade, suicide rates have increased for men and women of both races in the city.

Firearms in Homicide and Suicide.—To determine if a common method might be implicated in the slight rise in suicide rates over the sixties and the large increase in homicide rates in the latter part of the decade, rates were determined for victims killed by firearms (Fig 4). On all but one of the ten time-points (1940), rates for homicide by firearms are higher than those for all other modalities combined. The differences, however, are not great until the latter sixties, when there begins a slight increase in homicide rates by instruments other than firearms along with a large increase in the firearms rate.

Modalities other than firearms have been used more frequently for committing suicide over the past 33 years (Fig 4). However, during the sixties, while suicide rates due to methods other than firearms were quite stable, rates for suicide by means of firearms rose from 3.1 in 1960 to 4.5 in 1970.

Data on the types of firearms are not available for the entire study period, but our current experience is that approximately 90% of homicides by firearms and 80% of suicides by firearms are due to handguns rather than shotguns or rifles.

Classification of Homicides: Justifiable vs Nonjustifiable.—During the first two decades of the study period, homicide rates were relatively stable, with little change for nonjustifiable homicide (average, 5.2, 1940-1960), justifiable homicide by civilians (average, 0.6), and justifiable homicide by police officers (average, 0.4). The latter rate remained at about the same level throughout the sixties (Fig 5), but justifiable homicide rates for civilians rose to 1.7 by the end of the decade. Nonjustifiable homicides increased markedly in this period, rising to a value of 16.2 in 1970.

Comment

Cuyahoga County, Ohio, experienced a large increase in homicide rates in the latter 1960s, primarily due to a disproportionate and astronomical rise of homicide frequency in the city of Cleveland. Most (86%) of the homicides were nonjustifiable, but an upward trend in justifiable homicides is noteworthy. This latter increase is small in absolute magnitude compared to the leap of nonjustifiable homicides, although the relative increases of each are comparable.

Justifiable homicide by police officers has not shown an increase in rate over three decades; thus the recent increase of justifiable homicides has resulted entirely from civilians killing each other with legally excusable provocation (eg, self-defense). An upward trend in justifiable homicide in Cuyahoga County, therefore, is another valid index of the totality of criminal behavior and of violent response to stress in the community.

Suicide rates also increased during the latter 1960s, although this trend was slight compared to the dramatic rise in homicide rates during the same period. Relative proportions of

homicide and suicide in a given population may provide an interesting contrast of the frequency of self-destruction vs killing of another person. Based upon five-year averages centered around 1940 and 1969, suburban suicides formerly outnumbered homicides by 10.7 to 1; the ratio is now 4.4 to 1. Homicide is now 2.4 times as frequent as suicide in the city, whereas formerly the situation was reversed with 1.9 suicides per homicide.

The controversy over firearms control, especially as it relates to handguns, has many passionate advocates on both sides. Public debate is sure to continue. The experience of a single medicolegal investigative agency, which has collected data in a uniform manner over a 33-year period, is particularly instructive in this regard.

From 1938 to 1962, there was an average of 87 homicides per year in Cuyahoga County with firearms involved in 50% to 60%. We now have more than 300 homicides annually, and guns claim 80% of the victims! In 1963 the firearms homicide rate was 3.6 per 100,000 compared to 2.9 for all other methods combined. Corresponding homicide rates were 6.2 and 3.3 in 1966, and in 1970 the comparison shows a rate of 14.7 for firearms and 3.7 for all other modalities. Thus, the rapid increase in homicide rates in the latter 1960s clearly is attributable to homicides involving guns. Since approximately 90% of firearms homicides are handgun fatalities, we interpret this as an unmistakable and tragic consequence of the availability and abuse of handguns.

This communication provides a perspective of long-term trends in homicide and suicide in Cuyahoga County. Comparable metropolitan areas in the United States have had similar recent experience. Many important facets of homicide and suicide are untouched by this general survey, and we recognize a need for future work to focus in greater detail on such variables as the role of alcohol and drugs, age, relationship of victim and assailant, socioeconomic factors, and the legal follow-up of homicide.

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Otto Morgenstern did the computer programming

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The gun and the sanctity of human life; or The bullet as pathogen

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Illustrations are from *The Age of Firearms A Pictorial History* by Robert Held, New York, Harper & Brothers, 1957

Woodcut from the *Rudimentum Novicorum*, Lubeck 1475

Thoughtful clinicians and researchers are constantly on the alert for pathogens, whatever their nature, acting on the premise that identification of harmful environmental agents will lead to the introduction of measures to eliminate or control them.

In this presentation I discuss the bullet as a pathogen in our "peacetime" American society, a designation often considered a tragic joke by those of us who function professionally in metropolitan coroners' or medical examiners' offices, where we deal with violent death daily and, all too frequently, several times daily. I shall also mention briefly the epidemiology of gunshot incidents inasmuch as epidemiology may point to etiology.

Fatal and nonfatal gunshot incidents, whether they be attempted or successful homicides and suicides, accidents, or of undetermined origin, have multifaceted causations involving more than the presence of a potentially deadly firearm; but all too often a gun escalates the degree of violence to irreversible lethality. ("Wife, son 9, see man slain after minor car crash."[1] The victim was shot in the head.)

Human personality, intellectual capacity, emotional stability, our national historical heritage, community custom, popular entertainment (television, motion pictures, radio, and "comic" books), alcohol and other psychoactive drugs, and our legal system with its ramifications play roles in these tragedies. Although a gun is involved in most American homicides, it alone does not explain this blotch on our national face.

Discussion of firearms traumata possesses a relevance matched by comparatively few other remediable (an important qualification) life-and-death phenomena on the current American scene. The past decade witnessed a horrifying increase in homicidal and nonfatal gunshot crimes in our country. I do not call this a "wave" of homicides. Waves come, break, and recede. Rather, this dismal aspect of our society may be likened to a flood, with the water line (or blood line) constantly rising. ("Homicides are up 47% from '78's 1st quarter."[2])

The Sanctity of Human Life

Before presenting some factual aspects of firearms incidents, I offer a few words about the moral aspect of this complicated subject.

The term, *sanctity of human life*, is not a trite phrase or a banal cliché. We physicians know it to be an article of deep professional and personal

faith. All human life is sacred, and it is only the exigencies of war, excusable killings or justifiable homicides, and capital punishment (There, too, is an endlessly debatable subject.) that justify the deliberate termination of a human life.

Death is truly democratic, and we who deal with it in our autopsy and consulting rooms, and courtrooms know full well that regardless of race, religion, ethnic background, or life style of the homicide victim, the blood is always equally red, and the tears shed for the death of a loved one are equally salty.

Because most gunshot incidents arise from criminal acts with their sequelae of arrests and other steps of the law enforcement-judicial process, we must constantly bear in mind the thesis that justice exists only when those who have *not* been injured by a crime are as indignant as those who have been harmed by an unlawful act.

In a consideration of gunshot incidents, we deal with more than matters of life and death and more than simply medical or legal facts. We are concerned also with the quality of life. The news media inform the community about how many people have been done to death, whether by firearms, motor vehicles, or other traumatizing modalities. Unless the victim is a public figure such as Governor George Wallace, comparatively little attention is paid to nonfatal incidents, which range in gravity from minor to serious totally disabling injuries. Many nameless George Wallaces live out their shortened lives as paraplegics or worse because a missile transected their spinal cords. And there are those condemned to a vegetative existence as a consequence of a cerebral bullet injury.

Even when the gunshot victim recovers completely physically, how can one assess the degree of emotional trauma endured by the wounded subject, his family, and his friends? How in these days of double-digit inflation does one calculate the cost in dollars and cents of hospital care (operating room and what goes with it, blood bank, intensive care unit, special duty nurses, X rays), days lost from work by the human bullet target, police investigation, courtroom procedures, and all the rest? Where will this human and financial disaster end?

Gunshot fatalities are the visible tip of this iceberg of injury. Nonfatal wounds are more numerous and in many ways as or more important than those in which the victim was dead on or after arrival at the hospital. Thanks to advances in medical care made over the past several decades, many gunshot patients survive today who formerly would have succumbed quickly or slowly and agonizingly. A chilling thought presents itself: What would today's gunshot homicide toll be if we had our current assault rate combined with the medical skills and techniques that were available in the days before World War II and in the 1950s? What a mass disaster we would face if medical progress had *not* kept pace with the mounting level of violence!

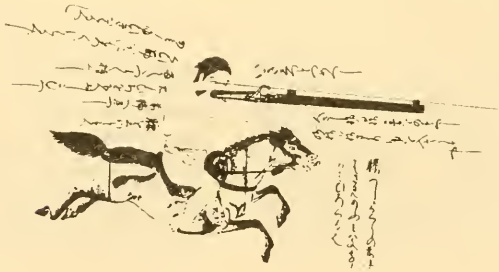
The spectrum of physically and emotionally traumatic human behavior in contemporary American society is deeply disturbing. There is no humor in death, no happiness in disability, and no joy in suffering. These are the bitter fruits of the tree of violence, and the availability of handguns fertilizes the soil for the growth of this malignant phenomenon.

In all fairness we must acknowledge that firearms can be and indeed are used occasionally to protect the lives of innocent people, to safeguard the privacy of one's home and the safety of one's belongings, over and above the fascination they hold for gun collectors and the fun they provide for hobby shooters.

Legally justifiable gunshot homicides are yet another aspect of the violence around us, whether the weapon was fired by a civilian or a police officer. Many law-abiding citizens are vociferous in their claim to their right (some consider it an obligation) to keep a loaded gun in their homes or on their persons to protect them from those who would harm or rob them. Their views, whether expressed individually or through such organizations as the National Rifle Association (NRA), must be kept in mind when we consider what can be done about firearms control.

Many of our fellow physicians, as learned and dedicated healers as the rest of us, I am sure, are quick to condemn any attempt at gun control. An editorial reprint entitled

Watercolor from *The Book of Firearms* by Nagasawa Shagetzuna, 1612



[illegible] *The Management of Arms: Arquebuses, Muskets, and Pikes*, Amsterdam, 1698

"Approved Therapy for Handgun Menace: 'Get the Bullet'" appeared in the *American Medical News*.[3] It evoked a spate of letters from physicians with communications headed by such phrases as "Get the criminal, not the bullet," "Passing a law is shooting from the hip," and "MD opposes handgun curbs."[4]

A Hard Look At Guns in Twentieth-Century U.S.A.

If we are to discuss the complex subject of gun control, we must do so on the basis of solid information, not emotion and prejudice. What are the *facts* about guns in our country today?

The Federal Bureau of Investigation (FBI) tells us that more than 20,000 homicides (culpable murders, manslaughters, and justifiable killings) occur annually in the United States. Put differently, every twenty-six minutes, a man, woman, or child is slaughtered in our nation by one means or another.[5] (These figures do *not* include fatal auto accidents classified as "vehicular homicides.") In 1976, homicide ranked as the twelfth most common "cause of death" in the United States, surpassing such serious "medical" entities as congenital anomalies, nephritis, nephrosis, and septicemia.[6] (Strictly speaking, homicide is not a *cause* but rather a *manner* of death. The *cause* of death is the responsible disease or injury. The *manner* of death is the fashion in which the *cause* arose.)

The weapon used most frequently with homicidal intent in America is a firearm, whether it be a handgun, shoulder gun, submachine gun, or some type of homemade lethal hardware, called a "zip" gun.[7] "Current national figures indicate that the number of homicides and attempted homicides perpetrated with firearms exceeds the number of homicides committed by all other forms of violence combined. Handguns comprise the majority of firearms."[8]

Firearms are used in three of four major crimes causing injury and death — homicide, aggravated assault, and armed robbery. They are the favorite weapon of the airplane hijacker. Since 1967, the number of firearms homicides in the United States has increased by 48 percent. During this same interval, homicides committed with other weapons increased by 10 percent.[8]

Of all weapons, firearms are the most deadly and the most versatile. They permit attacks at greater range and from positions of better concealment than do other lethal instrumentalities by persons physically or psychologically unable to overpower their intended victims through personal contact.

Since the start of this century,

more than 850,000 American *civilians* have been killed by bullets. This number exceeds the total military casualties suffered by our armed forces in all the "big" and "little" wars we have fought from the War of Independence through Vietnam. This is a record no other industrialized nation can approach.[5] To make this matter more timely, more Americans were slain at home during the first four years of the 1970s than were killed in combat during the entire span of the Vietnam hostilities. This gruesome statistic supports the contention that our nation is in the midst of a murder "epidemic" unparalleled in our history. Indeed, murder now ranks as major "cause" of death in some age-race portions of our society.[9] The killers are "typical Americans," 70 percent of their victims are friends or relatives, and only 2 percent of the assailants are judged "criminally insane."[10]

Bullet Fatalities — A Personal Statement

My association with the Coroner's Office of Cuyahoga County, Ohio (Cleveland and its suburbs) spans three decades. Thus I am familiar with the urban handgun-homicide complex on the basis of almost daily personal experience. When I started to work in this governmental agency, the annual county homicide toll was less than 100, of which 50 to 60 percent involved guns. Starting in the mid-sixties, the homicide incidence and rate rose sharply. Now nearly 80 percent of these bloody episodes are gun-dependent. Of these, the weapons in approximately 80 percent of cases are handguns.

In my community, guns, especially handguns, account for roughly four times as many homicides as all other forms of lethal, criminal violence combined.[9, 11]

If there were in excess of 200 deaths annually in my county from typhoid fever, as there are from criminally caused gunshot fatalities, there would be mass hysteria. Yet these murders and manslaughters are accepted by the majority of our

To the Honourable Thomas Fairfax Esq.r eldest Son of the R.t Hon.ble Henry Lord Fairfax of Denton in Yorkshire. This Plate is humbly Dedicated by Richard Blome.

Engraving from Richard Blome's 1686 re-edition of Nicholas Cox's 1677 edition of The Gentleman's Recreation

citizens as a reasonable price to pay for living in "the best location in the nation."

A Brief Glance at Geography and History

Where strict gun control laws are enforced, homicides in general and assassinations occur infrequently. There were 189 murders in Tokyo in 1974 compared with more than 1500 in New York City. Only one in Tokyo involved a gun. During that same year there were 1708 murders in all of Japan of which only 72 (4 percent) were gun-caused, and firearms were utilized in less than 2 percent of armed robberies.[12]

Data from Western European nations are similar. Great Britain, with its population in excess of 50 million, has fewer annual killings than the borough of Manhattan with its 1.7 million inhabitants. In short, the United States averages *fifty* times as many gun homicides as the combined populations of England, Germany, and Japan.[13]

One author puts this aspect of our society in the following words:

> To foreign observers, nothing is more astonishing than our casual recourse to violence in personal disputes, unless it is our failure to restrain it by law — in particular, our failure to control the indiscriminate sale and use of guns, which in recent years has lain at the heart of the controversy and at the same time has made it politically insoluble.[14]

It is more than coincidence that all four American presidents killed in office in the century that elapsed between Lincoln's murder at Ford's Theater in 1865 and Kennedy's assassination in Dealey Plaza in 1963 involved firearms. Lincoln, Garfield, and McKinley were shot with handguns. Kennedy was killed with an Italian military rifle. In this same context, attempted and, fortunately, unsuccessful assassinations of our nation's chief executives and of candidates for that high office all involved guns. (Recall the recent failed misdeeds of Sara Jane Moore and Lynette "Squeaky" Fromme.) Governor Wallace was crippled by Arthur Bremer in 1972, and Senator Robert Kennedy was killed in Los Angeles in 1968 during his campaign to win California's votes for the Democratic Party's nomination for president. Guns!! Guns!! Guns!! I recall no other industrialized North American or Western European nation that has had such a high, violent mortality in its top government leaders during the past century.

Engraving by Johann Wilhelm Baur, *Don Pavlo Giordano*, Rome, 1636

The Psychology and Psychopathology of the Shooter

The most reasonable explanation for the use of firearms in the majority of culpable homicides is that a gun, illegally used, is a coward's weapon. This is true whether the killing is committed in connection with a family argument, political terrorism, an armed robbery, a drunken quarrel between friends, or a skulking assassination. With its peculiar lethality, a gun converts a spat into a slaying and a quarrel into a killing. A handgun is effective at a distance of many feet, a shotgun kills or seriously injures at a muzzle-target distance of many yards, and a rifle is effective at hundreds of yards. (Remember what Lee Harvey Oswald, lurking in the Texas School Book Depository, did to his unsuspecting victim in a moving vehicle several hundred yards away, to comprehend the potential lethality of this weapon.)

The corollary of this unique firearms feature is that a slayer can kill with emotional impunity. Konrad Lorenz points out:

> The deep, emotional layers of our personality simply do not register the fact that the crooking of the forefinger to release a shot tears the entrails of another man. No sane man would even go rabbit hunting for pleasure if the necessity of killing his prey with his natural weapons brought home to him the full, emotional realization of what he is actually doing.[15]

Reams have been written about the psychiatric significance of the

gun. Some observers consider the gun to be a sex symbol of male chauvinism with its ability to make the weakest man the peer of the strongest. ("God made man, but Colt made all men equal.") Some analysts state that the attitude of at least part of the masculine portion of the progun faction to the "threat" of gun control springs from a castration complex, or even worse. Certainly a gun can flatter the ego of a man who has nothing else to be vain about.

There appears to be a deep psychological drive motivating those who keep guns in their homes, stores, or auto glove compartments. For good or ill, man has always wanted to control his environment and the men around him. A gun gives him this "magical" power.

The gun (and the use of a gun) haunts American speech. Would it be going off half-cocked to suggest that, just as a shot in the dark, nothing has penetrated the American idiom as deeply as the gun? The idea is not too wide off the mark. The gun has given the American tongue the big shot who is quick on the trigger, the straight shooter, the flash in the pan, and the dud.[16]

Guns create feelings of self-esteem, permitting even the least potent to join "The Superman Club." As part of its "magical" power, a firearm is "a key which can unlock any door."[17] With it, the misguided possessor believes that he can go anywhere and have everything he wants. No other weapon gives this feeling of mastery. On the basis of interviews with men convicted of armed robbery, a nationally syndicated psychiatrist concluded that in many instances the most important element in the crime was not the acquisition of money or jewels but rather the brief interval during which these armed individuals could force someone to do as they commanded. The firearm becomes a mechanism by which to compensate for feelings of inadequacy and represents a dangerous outlet for aggressive impulses.[17]

A gun is the favorite weapon of the

Engraving by Abraham Bosse, Antwerp, about 1630

political assassin. Other than for poisoning homicides, extremely rare today, the use of bombs (correctly termed "infernal machines"), and arson, practically every other attempt at man slaying requires that the assailant either come within arm's length or actual grips with his intended victim. Fatal injuries by knives thrown at rather than manually plunged into the victim are rare in the real world despite their comparative frequency in the "reel" world of Hollywood.

Facile access to firearms by their legal purchase, leaving aside for the moment their availability by their being borrowed or stolen, is an invitation to their wrongful use by the neurotic, the psychotic, and the socially maladjusted. Who can forget the multihomicides carried out by Charles Whitman in Austin, Texas (sixteen victims killed and thirty wounded, all but two by guns) and by Howard Unruh, who fatally shot thirteen neighbors and strangers within ten minutes in Camden, New Jersey?[5]

Shot and Killed on Duty

A firearm is the lethal instrumentality in virtually every homicide of a law enforcement officer killed in line of duty. During the past half-century, guns were responsible for over 90 percent of such fatalities, with pistols and revolvers constituting 95 percent of the fatal armament. Homicides involving "peace officers" occur throughout the United States at an average number of 100 yearly. In 1976, 110 law enforcement officers died as a consequence of criminal action, 93 by firearms.[18]

These sorry statistics become more impressive when they are compared with their counterparts in the British Isles. A recent study revealed that "over the past 10 years, *one* or *two* [emphasis added] British police officers have been killed on duty each year."[19]

Guns in America

The United States is the only industrialized nation that does not *effectively* regulate private ownership of firearms. The consequence of this sad fact is that our civilian population is the most heavily armed in history.[20] Approximately 100 million firearms of all types are in American civilian possession, and half of American homes have one or more firearms.[8] Sales of handguns and long guns have increased during the recent past, and we manufacture and sell more than 2.5 million handguns each year. Thus a new firearm is purchased every 13.5 seconds.[21]

Are we "hung up" on guns because of our frontier heritage? Canada, with the same frontier tradition as we, has only a fraction of our homicide rate.[5, 22] Australia, historically much closer to a frontier tradition than we and with a similar melting-pot makeup, has one-seventh the proportionate private handgun ownership as we, thanks to an efficient system of law enforcement.[5]

Although only one-fourth of our firearms are handguns, they account for almost three-quarters of firearms homicides. The criminal's primary weapon is a handgun, and the ready availability of handguns makes it easy for extremist groups and misdirected individuals to obtain them. Put succinctly, where there are more firearms, there is more firearm violence. Conversely, where there are fewer firearms, there is a decrease in this modality of injury and death.

Accidental Firearms Casualties

The inevitable result of guns in the hands of those who misuse them is a depressing list of fatal and nonfatal *accidental* shootings. By accidental shootings, I mean incidents wherein persons are shot by mischance or misadventure, whether the responsible person was the victim "playing" with or cleaning a loaded gun, or some other person who unintentionally precipitated the traumatizing event. A typical group of such frightening events is made up of the following headlines: "3-year-old boy shoots his mother to death";[23] "4-year old shot, killed by playmate";[24] "Boy 3, kills sister with parent's gun";[25] "6-year old is shot to death in 'find gun for $1' scheme."[26] It is evident that these tragedies would not have occurred had a loaded gun not been conveniently nearby.[27]

Approximately three thousand Americans die each year from accidental firearms injuries. Another twenty thousand are shot and survive.[8] Inasmuch as an accidental firearm death represents as premature a wastage of human life as that taken by a sadistic or psychotic killer, this facet of the gun problem deserves a moment's attention.

Like homicides, firearms accidents parallel the pattern of firearms ownership. The fallacy that a gun in the home represents protection for its residents is rebutted by data that prove that such household weapons are more likely to cause harm and death to those who own them, their children, and their friends than they prove to be an effective defense or reliable deterrent to those who would enter these homes, bent on robbery, burglary, or rape. Indeed, household weapons more often provide successful burglars and robbers with a ready arsenal than they prevent these marauders from carrying out their foul deeds.[28]

The Dispute

Any discussion of gun control requires that those who favor controlling firearms concede the inescapable fact that nonavailability of guns will *not* eliminate homicide or nonfatal assaults. People killed each other and themselves long before the Chinese invented gunpowder.

The logic-destructive arguments of both sides in the current gun control debate are equally self-destructive.

> Every side has a sizable amount of good sense and logic to depend on; but instead of simply saying they want to have a good time with their guns — something not frowned on even in Puritan America — the hunters have concocted all sorts of weird Constitutional and conserva-

Illustration from Mason L. Weems, *God's Revenge Against Adultery*, Philadelphia, 1818

tion arguments to defend their position. Instead of saying that they want to make as much money as they possibly can — which has never been considered as a sin in America — the gun merchants also throw up great cloudbanks of patriotic fluff. And the antigun people, who could effectively restrict their arguments to showing that guns are not an absolute necessity for the American way of life, have instead clobbered the senses with distorted statistics, hysterically interpreted.[22]

Many concerned people believe that a substantial portion of our murders and manslaughters would not have occurred had a firearm not been readily at hand. The man who puts a Saturday Night Special into his pocket before he visits his neighborhood poolroom or the woman who puts a pistol into her purse before she goes shopping are not the same persons they would have been were they not "toting" these items.

A critical feature related to the number of firearms in the community is the life span of a gun. If a "shooting iron" is properly looked after (that is, cleaned and oiled regularly), its life expectancy is many years. Many firearms used to commit crimes in our country are several decades old.[8] If we manufacture, import, or assemble no additional guns in this country for the next twenty or thirty years, we have currently on hand (and *in* hand?) a sufficient number of these weapons to decimate the population. Firearms longevity provides a rebuttal to the slogan, "Guns don't kill people. People kill people." The response to this statement is, "Guns don't die. People die."

A second sloganeering argument promulgated by our progun fellow-citizens is, "When guns are outlawed, only outlaws will have guns." Ergo, it follows logically that the law-obeying majority should have guns to protect themselves from the depredations of the habitual law breakers, who seemingly abound in our society.

There is no gainsaying the fact that the professional criminal is always able to get a gun, whether he buys, steals, borrows, or smuggles it across our international borders, and he will *not* register it, regardless of any law

that requires public recording of gun possession. The majority of American homicides, however, are committed by law-abiding people who know and frequently "love" each other, and who express aggression in this explosive manner.

Said differently, although the confirmed criminal will *not* register his gun, many people *become* criminals only after they have misused the weapon. The accessibility of a firearm permits the instantaneous metamorphosis of a law-abiding (hot-headed?) person into a murderer. The public has the misconception that most murders are perpetrated by criminals who kill to achieve profit and power, the Godfather image. Psychiatric studies reveal the opposite to be true. Most homicides are not associated with other felonies and are not perpetrated as the result of Mafia-type contracts.[28]

Consideration of the foregoing facts and arguments raises the question, How much longer must we wait and how many more lives must be lost to firearms before effective measures are forthcoming that will exert meaningful control over these presently all-too-readily accessible, death-dealing weapons? The current American approach to firearms — practically a laissez-faire attitude — is bankrupt.

One argument put forth by opponents of attempts at firearms control by state or federal legislative action is that it is their constitutional "right . . . to keep and bear arms." Taken out of context this phrase reverses the meaning of the constitutional intent, as has been demonstrated repeatedly by judicial interpretations.

The Second Amendment to the Constitution, which states, "A *well-regulated Militia* [emphasis added], being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed," was enacted in the eighteenth century, when its provisions were essential for the survival of a struggling, infant nation, beset on all sides by actual and potential enemies. Moreover, the citizen did not then enjoy the protection we have today, when help is available at practically a moment's notice, thanks to modern communications and police mobility. Consequently, a citizen required some means to protect the privacy of his home and the personal safety of himself and his family.

These provisions are invoked today by many persons to justify their keeping a loaded firearm in their homes when the need for a "well-regulated Militia," in the sense intended by the Second Amendment, disappeared long ago. The "well-regulated Militia" of the eighteenth century is today's National Guard, and the "right to bear arms" is not synonymous with a citizen's putting a "piece" into his pocket or into her purse.

In talking about constitutional rights, we should recall that the Preamble to this governmental bulwark states that one of the purposes for its enactment is to "insure domestic Tranquility." Domestic tranquility means that one is safe in one's home, at one's place of work, and on the streets of one's community. The guns now used to kill and cripple make a mockery of these words.

Putting legalities aside for the moment, we must not overlook the right that supersedes and antedates all constitutional rights, and that is the right *not* to be killed by a fool, a maniac, or a robber who would use a gun with deadly purpose. No occupant of a premature grave who died as a result of the wrongful use of a firearm enjoys *any* constitutional rights.

The Legislative Approach to Firearms Control

Several contrasting concepts must be kept in mind when we come to grips with "passing a law" to reduce the slaughter by firearms. Enacting a law often does not guarantee an effective solution to a simple, let alone a complex, emotionally laden issue.[29] Bad laws are the worst form of tyranny, because they legalize governmental activities that are oppressive or unjust. A good law must be enforceable and enforced; otherwise the legislative process is a farce.

When legislation that could lead to a decrease in homicidal violence is discussed, we are confronted by doctrines of defeat and discouragement. Antigun control proponents iterate the proposition that firearms surveillance is a waste of time, money, and energy that could be more fruitfully expended for other purposes.[30]

There is no denying that an effective gun law, however one defines it, will not (repeat *not*) prevent gunshot incidents, fatal or nonfatal. But such a law should reduce their number. If the law does not cure, let it mitigate the multifold misery. The law need not prohibit. Let it regulate. If we can not eliminate the problem, let us attempt to control it.

Current American federal, state, and municipal gun laws fill a printed volume of 389 pages, which is a legislative crazy quilt.[31] A recent Associated Press dispatch carried the lead, "Guns across the line — Local firearms control laws don't halt crime, U.S. says."[32] This not surprising item tells us that a federal study concluded that *strict, local* gun control laws are not effective in keeping handguns away from lawbreakers. The study also established that many of the weapons were Saturday Night Specials, frequently obtained in lawful fashion.

Guns and what goes with them (ammunition, hunting gear, et cetera) are a multimillion dollar, legitimate business.[33] The progun lobby, financed primarily by arms manufacturers and spearheaded by the NRA, is a major objector to change in statutory approaches to firearms. Gun control advocates should proceed with respect for the concerns that motivate opposition to gun regulation.

The approach of gun confiscation is neither wise nor workable. What we need is a sound *federal* law that is clear, uniform, and precise. Such a law should regulate the sale and ownership of guns *and* ammunition, thus permitting the institution of some type of prophylaxis. We physicians are aware of the superiority of pre-

vention over treatment of potentially fatal diseases.

A recent nation-wide poll of 1500 adults revealed that 84 percent favor regulation of newly purchased handguns, and 70 percent support an outright ban on Saturday Night Specials. (This label is a misnomer. These weapons, which "draw heavily on the emotions and lightly on the purse,"[22] are effective every day of the week, morning, noon, *and* night.) Moreover, 70 percent of those interviewed said that a stand on gun control could affect their votes for a specific candidate.[34] A recent Harris survey indicates that most Americans favor a law that requires that privately owned guns be registered with federal authorities.[35]

The need for a nationwide effort dedicated to this life-and-death matter is self-evident. In a democracy the populace gets the type of government it chooses. This is especially true if we elect a Congress shaking in mortal fear of the NRA, which threatens to ensure the defeat of any officeholder who votes for a federal gun-regulation law.[14] Despite the results of the polls cited earlier, a recent attempt to regulate handguns was defeated in the House of Representatives by a four-to-one margin, thus sustaining the potential criminal's right to "bear arms" (that is, to purchase, import, assemble, and ultimately to use arms unlawfully).[36] Dr. Milton Eisenhower, head of the National Commission on Violence, declared that the United States held "the distinction of being the clear leader in violent crime among modern, stable nations," as well as having the highest gun-to-population ratio in the world, other than for Switzerland. He said, further, "I continue to be perplexed by the blind, emotional resistance that greets any proposal to bring this senseless excess under control."[29]

We should be able to reduce the number of handguns used for malicious purposes without interfering with legitimate gun sports. A compromise should be worked out through wise leadership. But unless our public officials have the voters' support, they will not dare to incur the wrath of the NRA.

But any law, even a well-administered, "good" law, is too blunt an instrument to control the gun problem by itself. We need education and indoctrination in our schools, homes, and houses of worship, and we need constant reminding by the responsible segment of our news media that the basis of a decent society is respect and regard for the sanctity of all human life.

L'Envoi

Here are three summing-up statements.

By . . . our readiness to allow arms to be purchased at will and fired at whim; by allowing our movie and television screens to teach our children that the hero is one who masters the art of shooting and the technique of killing . . . we have created an atmosphere in which violence and hatred have become popular pas-

Colt advertisement, about 1852-53

times. — *Doctor Martin Luther King, November 1963.*[8, p V] (Dr. King was fatally shot in Memphis, Tennessee on April 4, 1968.)

We have a responsibility to the victims of crime and violence. . . . It is a responsibility to put away childish things — to make the possession and use of firearms a matter undertaken only by serious people who will use them with the restraint and maturity that their dangerous nature deserves — and demands. — *Senator Robert F. Kennedy, July 11, 1967.*[8, p V] (Senator Kennedy was fatally shot on June 5, 1968 in Los Angeles, California.)

The current banality is that, like the weather, violence is what everybody discusses and does nothing about. For the violated and for everybody else in danger of being violated, violence is not banal.

There is of course no single manifestation of this social disease, no single causative mechanism, no single cure. There are, however, "small steps" that can be taken by the federal government, steps capable of being administered and enforced, which can save no small number of lives and retard the frightening escalation of this evil: (1) the restriction of the manufacture, distribution and sale of cheap handguns (the so-called Saturday night specials), and (2) the registration of all handguns.

Implementation of legislation of these two measures, were it to save a single life, would warrant such action by the federal government.

How large a holocaust must we have to bestir us to act? — *Editor Naomi M. Kanof, 1975.*[37]

How many "shocks to the national conscience" do we need before we do something positive? The medical profession, charged with and sworn to the maintenance and restoration of health, the preservation of life, and the prevention of death, should speak out responsibly and responsively in the debate about this danger until effective measures for handgun control are properly implemented.

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SPECIAL ARTICLE

VIOLENT DEATH IN A METROPOLITAN COUNTY

Changing Patterns in Homicide (1958-74)

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Abstract Analysis of homicide patterns in Cuyahoga County, Ohio (metropolitan Cleveland), for 1958-1974 discloses the following major trends: a dramatic rise in overall homicide rates in the city (320 per cent) and suburbs (200 per cent); an increase in justifiable homicide; a doubling of the percentage of homicides incident to other felonies; a markedly increased incidence of homicide among younger persons; a conspicuous rise in firearm killings (now 81 per cent of all homicides); and a continued preponderance of intraracial homicide, with the highest rates among nonwhite males in the city.

The trends in Cuyahoga County are consistent with those in other United States metropolitan counties. Homicide is responsible for a major part of the decreased life expectancy among young, urban, nonwhite men. The factor most consistently associated with these trends is the increased use of handguns. (N Engl J Med 297:531-538, 1977)

DURING the decade from 1960 to 1970, for the first time since the Great Depression, a sizable segment of the United States population experienced an increased death rate. Among men 25 to 34 years old, the overall mortality rate rose 16 per cent. The increase was 39 per cent for nonwhite men in this age range living in central-city metropolitan counties. Roughly half the increased death rate is attributable to rapidly rising homicide rates.[1] In fact, homicide has now surpassed accidents as the leading cause of death for nonwhite men 25 to 34 years old. The national increase in homicide mortality in this population group was 80 per cent (from 81.4 to 146.3 per 100,000 population); simultaneously, the rate attributable to assault by firearms and explosives jumped 135 per cent (from 45.5 to 106.7 per 100,000 population).

In a previous study,[2] we evaluated long-term trends in homicide and suicide rates in Cuyahoga County, Ohio (metropolitan Cleveland), stressing a recent marked increase in homicide frequency. The annual homicide rate had been stable from 1940 to 1960: 5.5 to 6.6 victims per 100,000 of county population. In the mid-sixties the homicide rate reached 9.4, and then escalated to 18.4 by 1970. Most of the increase occurred in the centrally located City of Cleveland. The majority of victims were black men who had been shot to death with handguns.

This study focuses on details of the homicide pattern from 1958 through 1974. To investigate changing variables, we have subdivided the 17-year interval into three periods: 1958-1962, a base-line period with a relatively low and stable homicide rate (average, 5.6); 1963-1968, an intermediate period during which the initial increase in homicide rate occurred (average, 9.2); and 1969-1974, a third period with high and slightly increasing rates (average, 19.2). This time span is longer than those evaluated in most studies of homicide and permits an analysis of changes in age, sex and race-specific homicide rates and their relation to the lethal instrument. In addition, we have analyzed patterns of justifiable and nonjustifiable homicide, felony and nonfelony homicide and intraracial and inter-racial homicide.

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METHODS

Cuyahoga County ("county") consists of the City of Cleveland ("city") and an adjacent agregate of 36 cities, 20 villages and four townships ("suburbs"). All known or suspected violent ("unnatural") deaths in the county must be investigated by the Coroner, regardless of the fashion in which the violence arose. Only the Coroner can sign a valid death certificate when injury causes or contributes to death. Criteria for the verdicts of homicide have been consistent throughout the study period because one man (Samuel R. Gerber, M.D., L.L.B.) has been County Coroner since 1936. Data from police reports, eyewitness accounts and hospital records supplement the anatomic, toxicologic and other objective findings of the Coroner's staff.

We calculated annual homicide rates using data from the Coroner's records to determine the number of victims and from Census Bureau publications for population figures. The latter include a 1965 special census for the City of Cleveland as well as the decennial censuses of 1960 and 1970. Suburban and county populations for 1965 were estimated by linear interpolation of the decennial census figures. Average annual homicide rates for the three previously defined periods are based on population estimates for 1960, 1965 and 1970.

Justifiable homicide is a legally excusable killing in which the decedent was killed while perpetrating (or attempting to perpetrate) a felony or fleeing after its commission. Felony-homicides are those in which the assailant kills while committing some other serious crime such as robbery, burglary, rape, kidnapping or arson. Traffic manslaughters are not included in our homicide data. Fatalities are tabulated according to the location of the homicidal incident (city vs. suburbs) rather than the place of death or residence of the victim.

This study analyzes homicide rates for age, race, and sex of the victim, location of the incident (city vs. suburbs), type of homicide (justifiable vs. nonjustifiable and felony vs. nonfelony), method of lethal violence and race and sex of assailant. Race is designated as white or nonwhite; the nonwhite county population was 98.7 per cent black in 1960 and 97.[illegible] per cent in 1970.

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Results

Sex and Race of Homicide Victims

The number of homicide victims and homicide rates (unadjusted and age-adjusted) for the total county population as well as those based on race and sex are shown in Table 1. Homicide rates adjusted for changes in the age composition of the county population over the period of the study were similar to corresponding unadjusted rates, indicating that shifts in the age composition of the population had little effect. Hereafter, we report unadjusted rates, expressed as the number of victims per 100,000.

Over the 17-year interval, the total county homicide rate rose from 5.6 in the base-line period to 19.2 in the third period, a 243 per cent increase. The rise during the third period (from 18.4 in 1970 to 22.0 in 1974) was far more gradual than that in the preceding intermediate period. (The overall homicide rate in 1975 was 21.6 and in 1976 was 19.1, suggesting that for the county, the homicide rate probably has plateaued.)

In several studies of urban populations,[3-8] homicide has been reported to be disproportionately frequent among nonwhite men. The difference in homicide rates between this group and other sex and race categories increased markedly during the past decade in Cuyahoga County (Table 1). Although the greatest rise in absolute rates occurred among nonwhite men, the greatest percentage increase in homicide rate was that for white men. The relative increase from the base-line to the third period for nonwhite men was 224 per cent as compared with a corresponding rise of 289 per cent for white males. Women were killed less frequently than men of the same race, and white women had the lowest homicide rate Nevertheless, female homicide rates for both races are now approximately double those of the initial period.

Homicide Rates for the City of Cleveland and Suburbs

In the suburbs, both races and both sexes have lower homicide rates than their counterparts in the city (Table 2) The difference is greatest for white men, since in the third period, the suburban rate is only 8.5 per cent of the city rate, whereas rates for suburban nonwhite men, white women and nonwhite women are 27.9 per cent, 26.9 per cent and 65.8 per cent of the corresponding city rates. Nevertheless, the increased number of killings is not confined to the city: homicide rates for suburbanites doubled over the base-line level.

In the city, nonwhite men had the highest homicide rate in all three periods of the study, and the rate also increased 259 per cent over the base-line value. However, the greatest relative increase occurred in white city men (455 per cent). Their rate now surpasses that of nonwhite women, altering the traditional ranking of race-sex homicide mortality found in Cleveland[3] and other urban communities.[4-6]

Table 1 Homicide Rates in Cuyahoga County According to Race and Sex (1958-1974), Showing Number, Annual Rate and Age-Adjusted Annual Rate.*

Group	1958-1962			1963-1968			1969-1974		
	NO	RATE	ADJ RATE	NO	RATE	ADJ RATE	NO	RATE	ADJ RATE
	victims/100,000 population †								
White males	91	2.7	2.6	199	5.0	5.1	418	10.5	10.5
Nonwhite males	247	39.6	39.2	520	61.2	64.8	1,220	128.3	135.7
White females	46	1.3	1.2	81	1.9	1.8	115	2.6	2.6
Nonwhite females	75	11.2	10.4	125	13.3	12.8	234	21.8	21.2
County totals	459	5.6	5.3	925	9.2	9.1	1,987	19.2	19.1

*Age adjusted (Adj) with US population in 1970 as standard population

†Census figures for county population 1960 — 1,647,895, 1970 — 1,721,300

Table 2. Homicide Rates in the City of Cleveland and Suburbs According to Race and Sex (1958-1974), Showing Number and Annual Rate

Group & Location	1958-1962		1963-1968		1969-1974	
	NO	RATE	NO	RATE	NO	RATE
	victims/100,000 population					
City						
White males	75	4.9	170	11.0	357	27.2
Nonwhite males	242	39.6	512	64.6	1,169	142.1
White females	32	2.0	58	3.5	75	5.2
Nonwhite females	72	11.0	121	13.7	213	22.8
City totals	421	9.6	861	17.7	1,814	40.3
Suburbs.						
White males	16	0.9	29	1.2	61	2.3
Nunwhite males	5	16.0*	8	16.0*	51	39.7
White females	14	0.7	23	0.9	40	1.4
Nonwhite females	3	8.0*	4	8.0*	21	15.0
Suburb totals	38	1.0	64	1.2	173	3.0

*Estimated rate for period 1958-1968 since there were too few nonwhites in the suburbs to calculate meaningful rates for period 1958-1962

Age of Homicide Victims

A striking illustration of the changing homicide pattern in the city is provided by the age-sex-race specific rates (Table 3). During the base-line period, the highest homicide rates for white men were in the group 55 to 64 years old and for nonwhite men in the range of 35 to 44 In subsequent periods, however, the modal age shifted to 25 to 34 for all men. The rate for white women killed in the city shows a similar decreasing modal age, from 55 to 64 in the base-line period to the group 25 to 34 years old in the third period. The rate for nonwhite women in the city is highest in the group 35 to 44 years of age throughout the 17 years of the study.

City teen-agers and men in their early twenties have experienced the greatest increases in homicide rates. With use of five-year age groupings, nonwhite males, age 15 to 19, had a base-line rate of 34.5, whereas in the third period, the rate was 132.3, representing a 283 per cent increase. For white males 15 to 19 years old in the city, the increase from the intermediate to the third period was 1.1 to 20.3, a 1745 per cent jump. Increases from base-line values for corresponding

Table 3. Age-Race-Sex-Specific Annual Homicide Rates in the City of Cleveland (1958-74).

Age	White Males			Nonwhite Males			White Females			Nonwhite Females		
	'58-'62	'63-'68	'69-'74	'58-'62	'63-'68	'69-'74	'58-'62	'63-'68	'69-'74	'58-'62	'63-'68	'69-'74
	victims/100,000 population			*victims/100,000 population*			*victims/100,000 population*			*victims/100,000 population*		
15-24	2.6	14.7	39.3	44.1	92.4	214.6	0.9	4.3	3.8	14.1	19.1	35.7
25-34	8.4	23.0	51.4	82.1	167.0	344.0	3.1	5.8	9.3	18.1	25.7	34.0
35-44	6.9	18.6	43.6	83.0	126.2	253.0	3.7	8.0	6.8	24.3	26.3	41.3
45-54	6.8	12.8	32.6	57.1	89.3	193.8	2.0	2.3	5.0	12.7	18.1	31.0
55-64	10.7	7.2	29.3	37.1	43.7	113.2	4.3	0.6	5.8	4.7	10.4	13.6
65+	5.9	10.6	19.3	13.8	29.5	74.4	1.0	3.5	5.5	3.0	4.0	7.8

groups 20 to 24 years of age were also astonishing: nonwhite males, 54.2 to 345.1 (537 per cent); and white males 4.1 to 57.7 (1307 per cent). The rise in the city white teen-age male homicide rate constituted the largest proportionate increase for any age group. However, the largest absolute increase in homicide rate has been for city nonwhite males 25 to 29 years of age, rising from a base-line value 93.9 to 391.4 victims per 100,000 population.

Justifiable and Nonjustifiable Homicide

Legally excusable killings as a proportion of all homicides have remained constant, accounting for roughly 13 per cent of the total homicide rate in each study period. Approximately 75 per cent of these incidents involve civilians rather than police officers. Victims of justifiable homicide were almost exclusively male, and the rate for nonwhite males was almost eight times that of white males. In general, the rates of justifiable and nonjustifiable homicides have increased in a parallel manner in Cuyahoga County.

Felony and Nonfelony Homicides

Most homicide victims are killed by relatives, friends or acquaintances during or after a quarrel.[6] Although most such killings are per se felonies, they are designated as nonfelony homicides to indicate that they occurred independently of some other crime.

Killing by a stranger is almost exclusively of the felony type (that is, associated with another crime). The rising crime rates experienced in most metropolitan areas led to the prediction that more homicides would occur in conjunction with other crimes. We investigated this hypothesis using the data of the present study.

During the base-line and intermediate periods 7.1 to 7.6 per cent of all homicides in the county were committed in conjunction with another felony (Table 4). In the third period there was a doubling of the proportion of felony homicides. Over the period of the study the total homicide rate for the county increased 243 per cent, nonfelony homicides rose 213 per cent, and felony homicides jumped 625 per cent. Although the relative increase was much greater for felony than for nonfelony homicides, in terms of absolute rates nonfelony homicides still claim the great majority of victims.

Mode of Lethal Violence

In a previous study[2] of long-term trends in homicide rates in the county, we noted a disproportionate increase in firearm killings. The sustained increase in felony homicides and homicides among younger victims in the third period of this study prompted us to investigate the role of firearms as a mode of lethal violence. We predicted that there would be greater use of firearms in killing of younger victims and in commission of felony homicide.

In the base-line period, firearms claimed more than twice as many victims in the county as either cutting

Table 4. Nonfelony and Felony Homicides in the City of Cleveland and Cuyahoga County, Annual Rate.

Group & Area	1958-1962		1963-1968		1969-1974	
	Nonfelony	Felony	Nonfelony	Felony	Nonfelony	Felony
	victims/100,000		*victims/100,000*		*victims/100,000*	
City						
White males	4.1	0.8 (16.3)*	9.3	1.7 (15.5)	20.7	6.5 (23.9)
Nonwhite males	46.5	3.1 (7.8)	60.2	4.4 (6.8)	122.2	19.9 (14.0)
White females	2.0	0.0 (0.0)	3.4	0.1 (2.9)	4.6	0.6 (11.5)
Nonwhite females	11.0	0.0 (0.0)	13.7	0.0 (0.0)	21.6	1.2 (5.3)
Total county	5.2	0.4 (7.1)	8.5	0.7 (7.6)	16.3	2.9 (15.1)

*Figures in parentheses denote felony homicides.

Table 5. Homicides According to Mode of Lethal Violence

Group & Area	Firearms			Cutting & Piercing Instruments			Other Modes		
	'58-'62	'63-'68	'69-'74	'58-'62	'63-'68	'69-'74	'58-'62	'63-'68	'69-'74
	victims/100,000			victims/100,000			victims/100,000		
City:									
White males	2.4 (48.0)*	7.5 (67.6)	20.7 (76.4)	0.8 (16.0)	1.1 (10.0)	2.5 (9.2)	1.7 (36.0)	2.4 (22.4)	3.9 (14.5)
Nonwhite males	20.4 (55.6)	45.6 (72.2)	122.0 (85.9)	12.9 (32.6)	13.8 (21.3)	10.6 (7.5)	4.3 (10.8)	5.1 (6.5)	9.4 (6.6)
White females	1.1 (53.1)	1.3 (37.9)	2.6 (50.7)	0.3 (15.6)	0.8 (22.4)	0.5 (9.3)	0.6 (31.3)	1.4 (39.7)	2.1 (40.0)
Nonwhite females	6.1 (55.6)	7.1 (52.1)	15.2 (66.7)	2.0 (18.1)	3.1 (22.3)	1.9 (8.3)	2.9 (26.3)	3.5 (25.6)	5.7 (25.0)
Total county	3.0 (54.0)	6.1 (66.8)	15.6 (81.0)	1.4 (24.8)	1.7 (18.6)	1.6 (8.2)	1.2 (21.2)	1.4 (14.6)	2.0 (10.8)

*Figures in parentheses denote % according to mode of homicide, calculated before rounding rates to 1 decimal

and piercing instruments or all other methods combined (Table 5). The last category consisted primarily of assaults (including fists, feet, and blunt instruments) and strangulation. In subsequent periods, firearms were used more frequently, and by the third period, they accounted for four fifths of all county homicides. Firearm homicide rates increased in all race-sex groups in the city, with the greatest relative increase (762 per cent) in white male victims. However, firearms were used in the greatest proportion of nonwhite city male homicides within each interval, accounting for 85.9 per cent of the victims in the third period.

Deaths from the use of cutting and piercing instruments became proportionately less frequent as a mode of lethal violence in the third period for all race-sex groups in the city. The decline was most dramatic in nonwhite city men, among whom there was not only a relative reduction in homicides by means of these weapons but also a decrease in the absolute homicide rates for this mode. Cutting and piercing instruments were used in 32.6 per cent of the nonwhite city male homicides during the base-line period. However, by the third period deaths by this mode had decreased to only 7.5 per cent.

A surprising finding was that, among white women living in the city, there was a greater relative increase in homicide by modes other than firearms or cutting and piercing instruments. In this group, for whom homicide rates are relatively low in all periods, the rate of victimization with firearms more than doubled, and rates of homicide with piercing and cutting instruments increased by two thirds, whereas the rates for other modes more than tripled. Firearm homicides dropped slightly in this group as a proportion of all homicides between the initial and third periods, whereas rates for "other modes" increased. Thus, the general increase in homicide rates does not result exclusively from a rise in deaths by firearms.

The age distribution of firearm homicides for the three periods shows that young adult men have experienced the greatest increase (Fig. 1). The pattern of increase for whites and nonwhites has been similar, with the peak in the third period at 25 to 29 years of age, but the magnitude of rates is far greater among nonwhites. Clearly, the general escalation of homicide rates among young men has been mainly an increase in firearm homicides.

The use of firearms in felony and nonfelony male homicides in the city is compared for the time periods in Table 6. The proportion of white male felony homicide victims killed by firearms remained constant at a level of roughly 76 per cent during the 17-year study interval, although the rate of these killings increased by 600 per cent. For this group, the increase in firearm deaths was more conspicuous in nonfelony homicides, in addition to which the rate jumped 829 per cent. Nonwhite men, starting with high firearm rates, experienced substantial relative and absolute increases of firearm deaths in both felony and nonfelony homicides. Almost all felony homicides in this group are now committed with guns, and the felony and nonfelony firearm homicide rates rose by 631 per cent and by 421 per cent, respectively. The preponderant increase in the use of guns in nonfelony deaths suggests that increasing availability of firearms is converting more quarrels into fatalities.[9]

Race and Sex of Assailant

Earlier studies,[4-7] including one in Cleveland,[3] demonstrated that most homicides were intra-racial. However, in 1973 Block and Zimring[8] reported an increasing proportion of white men slain by nonwhite men in Chicago. We evaluated our data to determine whether inter-racial homicide had increased in Cuyahoga County.

Table 7 shows homicide rates for each sex-race group in the city, matching assailant with victim for incidents having a known single assailant and victim. Victims with known single assailants constituted be-

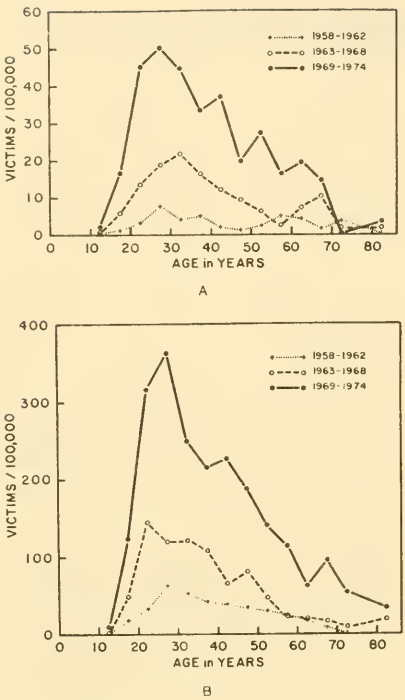

Figure 1. Age-Race-Sex Specific Homicide Rates for Firearm Victims in the City of Cleveland among White (A) and Nonwhite (B) Males

tween 70 and 95 per cent of all victims in the four race-sex groups for the three periods. Inter-racial attacks increased in both directions for males in the city. To avoid distortion, however, these data must be viewed in the light of trends in the population's changing racial composition. Two rates are calculated: victims per 100,000 of victim population and victims per 100,000 of assailant population. For example, the homicide rate for white male victims in the city slain by other white men increased from 2.6 to 12.0 (362 per cent) during the study interval and their death rate at the hands of nonwhite men increased from 1.0 to 5.6 (460 per cent). However, calculation of the city white male inter-racial homicide rate in terms of the nonwhite male assailant population shows a smaller proportionate increase from 2.5 to 9.2 (268 per cent). This difference is explained by a relative increase in the city nonwhite as compared to white male population over the 17-year period. Thus, if one considers the changing racial composition of the city, there is no disproportionate increase in the frequency with which black men kill white men. The homicide rate for nonwhite men in the city killed by other nonwhite men increased from 24.6 to 81.8 (233 per cent) whereas their homicide rate by white men rose from 3.1 to 6.3 (103 per cent). However, calculation of the city nonwhite male homicide rate in terms of the white male assailant population shows a greater relative increase, from 1.2 to 3.9 (225 per cent).

Table 6. Mode of Lethal Violence for Felony and Nonfelony City Male Homicides, Annual Rate.

Period & Type of Homicide	White Males		Nonwhite Males	
	Firearms	Nonfirearms	Firearms	Nonfirearms
	Victims/100,000 population			
Felony homicides				
1958–62	0.7 (76.9)*	0.2	2.6 (84.2)	0.5
1963–68	1.3 (74.1)	0.5	4.4 (100.0)	0.0
1969–74	4.9 (76.5)	1.5	19.0 (95.5)	0.9
Nonfelony homicides				
1958–62	1.7 (41.9)	2.4	19.8 (54.3)	16.7
1963–68	6.2 (66.4)	3.1	42.2 (70.1)	18.0
1969–74	15.8 (76.0)	5.0	103.1 (84.6)	18.8

*Figures in parentheses denote % firearms, calculated before rounding rates to 1 decimal

Analysis of the percentage of homicide victims according to type of assailant shows that the majority of victims are killed by male assailants of the same race (62 to 92 per cent). Taking population changes into account, there has been no consistent change in this pattern over the 17 years covered by the study. Thus, our data support those of previous studies showing that homicide remains primarily an intra-racial crime committed by men.[3-7]

Table 7. Race and Sex of Victim and Known Assailant in the City of Cleveland (1958-74) (Ratio of Victims per 100,000 Victim Population to Victims per 100,000 Assailant Population).

Victims & Period	Assailants			
	White Males	White Females	Nonwhite Males	Nonwhite Females
White males				
1958–62	2.6/2.6	0.5/0.5	1.0/2.5	0.0/0.0
1963–68	6.0/6.0	0.8/0.8	2.1/4.2	0.1/0.1
1969–74	12.0/12.0	1.1/1.0	5.0/9.2	0.8/1.0
White females				
1958–62	1.4/1.5	0.0/0.0	0.1/0.3	0.1/0.2
1963–68	2.1/2.1	0.3/0.3	0.4/5.3	0.1/0.1
1969–74	2.8/3.0	0.3/0.3	0.6/1.1	0.0/0.0
Nonwhite males				
1958–62	3.1/1.2	0.3/0.1	24.6/24.6	9.8/9.2
1963–68	3.7/1.9	0.4/0.2	38.1/38.1	15.9/14.3
1969–74	6.3/3.9	1.5/0.3	81.8/81.8	23.2/20.8
Nonwhite females				
1958–62	0.0/0.0	0.2/0.0	9.0/9.7	0.6/0.6
1963–68	0.2/0.1	0.1/0.0	9.6/9.0	1.8/1.8
1969–74	0.2/0.2	0.0/0.0	18.4/17.8	1.7/1.7

Discussion

The homicide trends reported in this study shock us. What has happened in Cleveland reflects, in a magnified way, national trends during the same period. Total and age-adjusted homicide rates for the United States also showed a relatively low base line in 1958-1962, a sharp increase from 1963 through 1968, and a continued rise from 1969 through 1973.[1]

Nationally, as in Cuyahoga County, rates have increased dramatically for both sexes and among whites and nonwhites, with the greatest absolute increase occurring in nonwhite men and the greatest relative increase among white men. The proportion of homicide victims slain by firearms, which was slightly over 50 per cent in both the United States and Cuyahoga County in 1960, rose steeply by 1973 to 67 and 81 per cent, respectively. The proportion of felony homicides also increased both nationally and locally, but the local figure of 15 per cent based on Coroner's reports was lower than the national figure of 29 per cent (felony and suspected felony) estimated by the Federal Bureau of Investigation on the basis of police reports.[10]

In other respects, however, the picture of homicide in Cuyahoga County is even more somber than in the nation as a whole and worse than that of many comparable cities. In 1970, Cleveland and Detroit had identical homicide rates of 34.5 per 100,000 population, second only to St. Louis (with a rate of 39.9).

The increase in homicide rates between 1960 and 1970 in the most severely affected group — namely, young men — has been twice as great in our county as the average for other metropolitan counties containing central cities. These, in turn, have experienced greater increases than the country as a whole (Table 8).

The impact of this change has been so great that, during the 1960's, among United States men 25 to 34 years of age, half again as many were killed in domestic homicides as in Vietnam. For these young men, mortality from all causes, excluding war casualties, rose 15 per cent during the decade.[11] Four of the six leading causes of death showed increases during this time, ranging from 18 per cent for accidents to 85 per cent for homicides. Young nonwhite men (85 per cent black) suffered the most. They started with higher mortality rates from accidents, homicides and cirrhosis than those experienced by white men and experienced greater absolute increases in all three categories by 1970. Homicide rates for young nonwhite men have increased to the point that they now surpass accidents as the leading cause of death in these age groups. Nonwhite suicide rates, which were lower in 1960 than those for their white contemporaries, rose to become virtually equal to white rates by 1970.

Since 1930, the expectation of life at all ages has been rising in the United States. The estimated length of life for all Americans increased from 59.7 years in 1930 to 70.9 years in 1970, with gains of 9.0 years for males, 13.2 years for females, 10.3 years for whites and 17.2 years for nonwhites. In the 1960-1970 decade, however, the pattern for young nonwhite males was broken. During these 10 years, the average life expectancy for nonwhite males between one and 20 dropped by more than a year. For example, a nonwhite male aged 20 could expect to live 45.8 more years in 1960 but only 44.7 more years in 1970. In contrast, the expected survival of a 20-year-old white male remained stable (50.2 years in 1960 and 50.3 in 1970).[11] The major factor in the increasing mortality rate and resultant decreased life expectancy among young nonwhite males during the past decade was the increase in homicides.

The marked rise in firearm killings in Cuyahoga County documented in this study is also evident in the national pattern of homicide. The homicide rate among young American adults killed by firearms and explosives increased from 4.6 in 1960 to 11.6 in 1973.[12] The percentage of all United States homicides committed by these means rose from 54.7 to 67.2 during this period,[1] as compared to an increase from 54.0 to 81.0 per cent in Cuyahoga County.

Table 8. Average Annual Homicide Death Rates per 100,000 Men, 25 to 34 Years of Age, 1959-61 and 1969-71, United States and Cuyahoga County.

Period & Area	White Males			All Other Males			Total Males		
	Death Rate	Decade Change		Death Rate	Decade Change		Death Rate	Decade Change	
		rate	%		*rate*	%		*rate*	%
1959-61:									
US	5.9			81.4			14.3		
Metropolitan counties with central cities	6.2			80.5			16.3		
Cuyahoga County	5.2			98.3			22.3		
1969-71:									
US	12.9	7.0	119	146.3	64.9	80	28.3	14.0	98
Metropolitan counties with central cities	15.3	9.1	147	155.9	75.4	94	36.1	19.8	121
Cuyahoga County	17.7	12.5	240	278.4	180.1	183	67.0	44.7	200

Several studies suggest that an important factor contributing to increased homicide rates in the United States over the past decade is the more ready availability of firearms, especially handguns.[13] During this period, increases in production, importation and ownership of firearms were accompanied by increases in both the national firearm homicide rate and the proportion of homicides caused by firearms. Moreover, rates of accidental firearm deaths and the proportion of homicides and aggravated assault with firearms have been found to be positively associated with gun ownership in various geographic regions of the United States.[14] In Cuyahoga County, a threefold increase in accidental firearm fatalities has paralleled the dramatic increase in homicides with firearms documented here.[15]

The President's Commission on Law Enforcement and Administration of Justice noted that gun use and crime are associated with handgun availability,[16] suggesting that the relatively low rates of gun use in crimes committed in New York City result in part from the strict screening of would-be purchasers and the use of permit procedures for firearms. On the basis of their study of foreign crime statistics, Etzioni and Remp conclude that the availability of handguns significantly increases rates of homicide and armed robbery.[17] Thus, there is a positive correlation between gun availability and homicide rates.

Guns are so numerous in the United States that about half of all American homes harbor at least one firearm. In 1968, a time of rapid acceleration in homicide rates, it was estimated that 90 million firearms, of which 24 million were handguns, were in civilian hands.[14] Fear of crime, violence and civil disorders apparently stimulated the sales of handguns in the nation's cities.

Roughly two thirds of respondents in a 1968 survey cited "protection" as the reason for owning a handgun. Unfortunately, this goal of security through gun possession is illusory. A handgun in the home is more likely to be used in a domestic homicide or to cause serious injury, intentional or accidental, than to deter a robber or burglar.[13] In Cuyahoga County, firearms in the home are six times as likely to cause accidental deaths as to kill an intruder.[15]

It is alleged that a gun is merely a passive instrument in the hand of a person intent on killing someone. Implicit in this belief is the assumption that assailants would use knives or other weapons with equally lethal efficiency if guns were not available. However, evidence indicates that this belief is erroneous. Homicide is usually not the result of a coldly calculated, premeditated intent to kill. The majority of these deaths occur during attacks precipitated by enraged quarrels. Most killings involve persons acquainted with each other "where spontaneous violence is generated and the weapon is used to win a fight or wreak vengeance or injury, whether or not this means that a death will result."[18]

There is a striking similarity between many fatal attacks and those that do not result in death. (The latter constitute aggravated assault.) Both involve the same kinds of victims and assailants, occur in similar circumstances and have their highest frequencies at the same hours of the day and the same days of the week. However, assaults in which a gun is used are five times more likely to result in death than assaults involving a knife, the next most lethal weapon.[14]

When guns are used in the commission of other crimes, they increase the probability of a fatal outcome. Armed robberies, in which a gun is the "arm," are four times more likely than other kinds of robberies to end in the death of the victim.[18] Firearms are the most destructive of readily available weapons in modern society. They permit an attack at a greater distance by persons who are unable to overpower their victims by other means. However, in most homicides the choice of a gun in preference to other modes of assault does not depend on the circumstances precipitating the incident. Data from a Chicago study indicate that the motive for an attack does not determine the weapon used. Comparable situations exist in firearm and knife homicides.[14] Evidence suggests that assailants using firearms are no more intent on killing their victims than those who use knives or other methods of assault.

The foregoing evidence leads to the conclusion that homicide rates would fall if the availability of firearms, particularly handguns, were decreased, an opinion with which the Staff Report on Firearms and Violence in American Life concurs.[14]

Although greater availability (and consequent misuse) of handguns is prominently involved in the increased homicide rate observed in the past decade, other factors have also played an important part. Somers,[19] in calling attention to the alarming increases in homicide rates among children and teen-agers, implicates a "culture of violence," which has become a way of life for large segments of the nation's youth. She maintains that television's daily diet of synthetic crime and violence is a contributory factor.

Although our data show a disproportionate increase in firearm killings for most groups in the city of Cleveland, an exception is the greater relative increase in city white female homicides by modes other than firearms. This finding suggests an increase in homicides not attributable solely to the greater availability and abuse of handguns.

Elements contributing to increased homicide rates are numerous and complex. They are unlikely to act as single causal agents, functioning rather as a meshwork of interacting factors. Although we have emphasized the role of firearms, other contributory components deserve detailed study. Alcohol as a catalyst for violence, for example, has been implicated in the events frequently leading to homicide.[3,6]

In addition to further description of overall trends, epidemiologic investigations of homicide that analyze additional component elements are needed. New approaches to the problem call for methods using spe-

cific homicide types, as suggested by Bourdois.[7] Future studies should relate the interactions of physical, psychologic, socioeconomic, political and cultural factors in the etiology of homicide. Similar studies of suicide and fatal accidents may ultimately define constellations of factors that are responsible for the increase in violent death in our urban communities and may point the way to effective prevention.

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Mr. HUGHES. Today is the first day of deer hunting season in Ohio. That might explain why some members of the opposing sect might not be present today.

What is the state of the law in Ohio with regard to handgun purchases? Is there anywhere in Ohio where a waiting period is required?

Mr. WHALEN. I can only speak for the Cincinnati and Hamilton County areas, Mr. Hughes, and there is no waiting period. There is an application that is filled out but the purchase is consummated right at the same time.

Mr. HUGHES. So, in OH, you can walk into a gun shop and walk out in 5 minutes with a handgun purchase?

Mr. WHALEN. Yes, sir. The only thing that we do not permit again in our locale is the sale of second handguns within the city limits. Within the county, pawn shops and such as that, they are allowed. Within the city, they are only permitted to sell new firearms.

Mr. HUGHES. Col. Grumney, you testified to the number of handguns seized last year, several thousand. I wonder if you could tell us what percentage of those handguns were purchased from lawful gun shops.

Col. GRUMNEY. Mr. Chairman, I do not have the exact statistics on that, but the vast majority of them were lawfully purchased, and like I said, we have approximately 300 felons that were apprehended. The majority of these had firearms which were legally obtained.

We do not keep actual statistics on that, but I do believe it is a very high percentage.

Mr. HUGHES. Well, in my opening statement, I alluded to the usual argument that one gets from those that oppose a waiting period, and that is that criminals do not buy handguns from legitimate gun shops. That is not so, is it?

Col. GRUMNEY. Based on the information we have, it is not, because it is so easily available, that they do not have to buy them from illegal sales. They are available legally.

Mr. HUGHES. How about you, Chief? What has been your experience in that regard?

Mr. WHALEN. I think we have some more experiences. The vast majority of the firearms that we take from criminals or that are used in criminal events can be traced back to legitimate purchases by the people involved, and that in this day and age, it is much easier to walk in somewhere and lay your money down and walk out with what you want instead of going into the criminal counter world and underworld and trying to get something that suits your needs. I believe that is the best way to describe it.

Mr. HUGHES. Chief, in a fairly large urban area like Cincinnati, could criminal history records be effectively checked without fingerprints?

Mr. WHALEN. It would depend upon the identifiers that were provided on the information sheet. If, in fact, there is adequate information regarding sex, race, age, and social security number, the criminal record can be checked in a very rapid fashion because all of the local municipalities are tied in by computer to county-wide

facilities and in the state-wide and nation-wide facilities on writs and warrants.

Mr. HUGHES. But if they give you a fictitious name or a fictitious address, that is something you would pick up almost immediately, is it not?

Mr. WHALEN. Well, if the information that they give such as a bad social security number or something, the information would not come back to the individual listed at that particular point. It is true that there are some subterfuges that could be employed where some are going to sift through, but the vast majority are going to be caught through the criminal justice system record and, of course, in the State of Ohio, we do have a law that prohibits possessing a weapon under disability and this not only relates not only to the prior felony criminal record, but to misdemeanor crimes, violence and also to known drug addiction or alcoholism.

Mr. HUGHES. Of course, the problem with that is that you do not find out until after the fact that it has been sold to them.

Mr. WHALEN. At the present time, that is correct, sir.

Mr. HUGHES. Obviously that is one of the compelling reasons why we should attempt to develop legislation requiring a waiting period.

Mr. WHALEN. Yes, sir.

Mr. HUGHES. Because while we ask people on the forms that they fill out whether they have a criminal history or a mental history of some kind, there is no check to determine whether they are being truthful.

Mr. WHALEN. That is correct, and I think there needs to be a penalty section in the law that pertains exactly to that, knowingly lying on the submission of the application.

Mr. HUGHES. And, of course, if they have a criminal record or a mental history, and they told the truth and said they did, they would be crazy to begin with.

Mr. WHALEN. The turning factor, though, is the track record builds and as the publicity begins to indicate in the local media, that this individual attempted to purchase a gun and was dealt with appropriately through the courts, because of attempting to possess it under disability or because of lying on the application form, then the deterrent factor starts to move in. We have to rely upon the courts to get the handle in that respect.

Mr. HUGHES. Dr. Adelson, in your years, how many years did you serve as the——

Dr. Adelson. Thirty-seven.

Mr. HUGHES [continuing]. Deputy coroner?

Dr. ADELSON. From 1950 to 1987.

Mr. HUGHES. So, over those years, you saw a lot of victims from handgun violence.

Dr. ADELSON. No exaggeration. Thousands. Homicides, suicides, and accidents. It is enough to make you physically ill.

Mr. HUGHES. Now, I suppose if we could just share your experiences with all the people in this country, there would be a clamor for some reasonable methods and processes to deal with handgun violence.

Dr. ADELSON. We have to keep handguns out of the wrong hands. We talk about criminals not being able to buy a gun. Many people

become criminals for the first time when they use a gun. Up to that time, they have not even received a traffic ticket. I remember a man who shot his wife and a couple of kids dead on Christmas Eve just before they were ready to go to church. The ready availability of a handgun turns a quarrel into a killing. It is interesting to listen to the figures, but I must say something that has been said before. Statistics do not bleed. You have to see the reality of these things day in and day out, and you do not become hardened to death. You become sensitized.

There is an overriding moral issue here which all of us should keep in mind. I am talking only about the dead victims. Another thing, if we had not had programs in my profession so that we could keep up with violence, it would be impossible to describe the holocaust. If we did not have blood banks which have been developed, vascular surgery, antibiotics, I hesitate to say what the mortality would be. When President Reagan, who is alive today because he was living in an era where he had excellent medical care says he is opposed to gun control, it makes me wonder a little bit.

I mean this most sincerely. I believe that every human life is sacred. This business of letting anyone buy a gun is terrible. If you wanted to buy a dozen phenobarbitol tablets, you would need a physician's prescription. If you want to go out and buy a Saturday Night Special or a .357 Magnum, all you need is the dough. It goes on and on and on. Let us do something positive. There is no vaccine for this problem as we have for polio.

If you think AIDS is bad now listen to this. I took the trouble to find out that since 1982, there have been 72 AIDS deaths in Cuyahoga County reported to the State Board of Health. From 1981 through October of 1987, there have been over 800 homicides in Cuyahoga County, of which 80 percent, 70 to 80 percent involved guns. The biggest threat to life today (I don't know it will be in 10 years) is not the AIDS virus. It is somebody with a gun who has no regard for your safety.

Mr. HUGHES. Well, that puts it in perspective. I saw an interesting figure just last night, reading through some material, that during the period of the Vietnam War, the war in Southeast Asia, we had more fatalities from firearms during that period of time than we did from casualties in Southeast Asia. More than 50,000.

Dr. ADELSON. You may have read that in the paper that I wrote, called "The Gun and Sanctity of Life."

Mr. HUGHES. I think it might have been in your paper, Doctor.

Dr. ADELSON. Again, no exaggeration.

Mr. HUGHES. In many cities, I do not know about Ohio, but when you open up a restaurant, you must go through a health inspection. They come out and see whether you are the kind of person that should be operating a restaurant in your community.

It is easier apparently to buy a weapon than it is to get a license to operate a restaurant in our cities today. It is just incredible.

The gentleman from Ohio, Mr. Feighan.

Mr. FEIGHAN. Thank you, Mr. Chairman.

Mr. Whalen, let me begin by asking you, several jurisdictions in Ohio, I think Cincinnati included, have adopted some form of regulation that would require some form of investigation by local law enforcement agencies that has the effect of a waiting period. Cleve-

land Heights and University Heights, I think, are two local communities that have similar statutes.

Could you just review briefly for us what you know to be the experience of some of those communities? Have those been effective ordinances? Have they deterred the purchase of handguns? Has there been a problem, an obvious problem because the adjoining jurisdictions do not have similar ordinances?

Mr. WHALEN. I think that is the crux of the problem, really, that the success is limited because the individual only has to cross a political boundary to enter into another community that does not have any restrictions whatsoever, other than the fact that you appear to be over 21 years of age and got the requisite amount of cash or a good credit card in your hand to make the purchase.

So that in the absence of a national waiting period with the attendant restrictions, then it just becomes a matter of transportation to gain access to whatever weapon you choose.

Mr. FEIGHAN. In the legislation that we have before us, we allow the communities, we make it permissible for those communities to conduct some type of background check. We do not mandate it. We provide for the period of time and if those local communities choose to use that time period to conduct an investigation, that is to their own judgment.

Do you think that we place an undue burden on local communities not by requiring, but by allowing them this opportunity to conduct a check into either the mental history or a criminal history of the applicant?

Mr. WHALEN. No, sir. I do not think it is an unreasonable burden. I think the doctor gave a very eloquent statement as he described the carnage that is resulting now from the open season, so to speak, where handguns are concerned, and although the law understands to be in its final writing will be permissive, the International Association of Chiefs of Police has indicated that they will urge their members to make it mandatory within their individual communities because of our regular responsibility to the safety of the general public and to the safety of all of the police officers that are represented through the I.A.C.P.

Mr. FEIGHAN. Let me ask you one final question, Mr. Whalen. Mr. Grumney, maybe you could respond to this as well.

The 7 days that we allow as the period of time that we hope will be sufficient to conduct an investigation of this nature, perhaps several years ago, 7 days would have been grossly inadequate. We anticipated that with the computerization of criminal records and other public records, that the 7 days would be a sufficient period of time.

Could you give us your best judgment about the adequacy of 7 days given the likelihood that a local jurisdiction would require perhaps the mailing of a copy of the application to a particular office, the burdens that are already placed on local law enforcement agencies, and then a requirement, a local requirement, hopefully imposed, that would require getting back to the gun dealer?

Is 7 days a sufficient period of time?

Mr. WHALEN. It would be tight. It would be tight in the sense of depending upon the regular U.S. mail for delivery of the information to the agency, allowing them to conduct the necessary work in

conjunction with their responsibilities, and then getting the information back to the supplier of the weapon.

I will be very honest with you. It is going to be a tight time line, but I think in those instances where the record does determine that the individual does have a criminal record and does, in fact, have some indication of an unstable background in the way of confinement in a mental institution, drug addiction, things of that nature, I would be sure that the responsible police agency would pick up the phone first and notify that purveyor of that weapon that this individual does not meet the requirements and that there would be written confirmation coming.

That is the only way that I can think of to get around the argument that I did not hear back within 7 days and, therefore, we just figured everything was all right. It would be tight.

Mr. FEIGHAN. Colonel Grumney.

Col. GRUMNEY. I agree that the time will be tight. My biggest concern would be getting the information to the police department in a timely manner. I think the police departments as busy as they are and the local county sheriff departments will act in a timely manner. I think the biggest concern is getting the information to them so they can take action.

Mr. FEIGHAN. Thank you.

Dr. Adelson, I do not have any questions for you. I very much appreciate not just your testimony today, but all of us who are from the Cleveland area appreciate not only those 37 years of exceptional and distinguished service to our community, but we are very much aware of how visible, how outspoken, how articulate, how powerful you have been on this issue, and the hearing in Cleveland, without your presence today, would have been grossly inadequate.

We very much appreciate your presence here today.

Dr. Adelson. Thank you for giving me the privilege to share my feelings with you.

Mr. FEIGHAN. Senator Metzenbaum.

Senator METZENBAUM. Yes. Very briefly.

First, I want to express my appreciation, Dr. Adelson, on those 37 years of distinguished service and for that very strong and eloquent statement this morning. I was particularly pleased to know about the highway patrol, which certainly does a great job in the State of Ohio, and we all have a tremendous respect for you. It has now seen fit to be one of the supporters of this legislation. I think that is very, very meaningful.

The Chiefs of Police, we have worked together before, and it is very good to see you here, Chief, from Cincinnati.

With that, Mr. Chairman, I will say that I am going to excuse myself, but again I want to tell you how grateful I am to you for being here and with our very able and distinguished Congressman.

Mr. HUGHES. Thank you, Senator.

Senator METZENBAUM. Thank you.

Mr. HUGHES. Good to see you. Have a good flight.

Chief, let me ask you a question. How much time is needed? If 7 days is not adequate, how much time is needed to turn the criminal histories around?

Mr. WHALEN. It would depend upon the depth of the investigation that was being conducted. If you are going to run a sufficient identifier to run a computer check off the top and then you are looking only at criminal history, the 7 day period may be adequate to get that information and to get a response back.

In dealing in the aspect of mental incarceration and some court adjudication of incompetency, that can be an involved process due to the privacy laws, and there is no ready source of that type of information, other than if there is physical contact made with the family. That is usually our best source of information about an individual's non-criminal characteristics that would prohibit their possession of a weapon. That becomes for a lot of departments a very time-consuming effort and puts a burden on it.

You say, is 7 days sufficient when you are looking at fighting to get your foot in the door? You are going to grab that week. Would 15 days be more adequate, to give law enforcement a better shot at determining the true status of the individual? Yes, it certainly would.

Even in this day of computers and electronic information, there is still a tremendous workload put on each of the individual municipal and county police agencies that you have to set priorities and I am aware of backlogs within our agency in records processing, although we would have to look at some way to give this a top level priority in order to accommodate the 7-day period.

Mr. HUGHES. In many communities, names would just pop-out. There are certain individuals you know in communities because you have arrested them, because they have been a problem for police, and you know right away. Others would take some time to try to run those histories.

Mr. WHALEN. Yes, sir. It would depend on the location where the individual attempted to purchase the weapon as opposed to the location where the information has to be checked out. You are assuming that the individual went within his or her own community to purchase the weapon and that name might pop out, but if they travel, sometimes, you know, it is the mere 15 or 25 miles away, the name would not ring a bell to anybody at that particular location.

Mr. HUGHES. Is Ohio developing a system whereby you can run checks statewide?

Mr. WHALEN. We have the law enforcement automated data system down at Columbus which is a centralized criminal information system, and it is connected to the 88 counties and it is connected to Washington, to the National Crime Information Center.

Mr. HUGHES. So, you do have that capability now?

Mr. WHALEN. For criminal record checks, yes, sir.

Mr. HUGHES. How about regional centers where you can check, where communities just on the other side of a State border might have gun shops selling to your residents?

Mr. WHALEN. Yes.

Mr. HUGHES. Do you have that capability?

Mr. WHALEN. We have that capability of a directed type of information through private licensing law, compact agreements, and through the National Crime Information Center, agreements with

adjacent States. There have been agreements formed that we can get criminal history information about an individual.

Again, any thing non-criminal that would make it illegal to possess a weapon is much more difficult to acquire.

Mr. HUGHES. We are talking about those case histories that require some digging, but we are selling weapons today to people that if we had knowledge, we could have alerted the gun shop to the fact that they were——

Mr. WHALEN. Yes. Straight off the top.

Mr. HUGHES [continuing]. Disqualified people, which——

Mr. WHALEN. Yes, sir. That is correct.

Mr. HUGHES. One of the things that always interests me about the opponents of this and similar legislation is that they do not even want the gun shops to share the information that they collect from dealers on that Federal form that needs to be filled out. It is not furnished to the police. So, you have no knowledge of gun sales that are going down and those that oppose this bill also oppose even sharing that information after the fact to the police officers.

Mr. WHALEN. Yes, sir. Yes, sir.

Mr. HUGHES. Which just shows you how unreasonable the position is.

Mr. WHALEN. You addressed it and Doctor Adelson addressed all weapons before. I have got a very simple thing that I do in my jurisdiction. I refuse to sign the application during the transfer. Under Federal law, it is permissible, but it is not a requirement by the statute to refuse to sign it.

Mr. HUGHES. How much additional personnel would you have to assign if, in fact, this became law or a similar bill?

Mr. WHALEN. It is going to require a study to determine the actual number of personnel because we have that after the fact and we have a county-wide set-up rather than a municipality. We would not have a definitive answer to put on it, but on the basis of other records and checks and things that we have performed, I would estimate that in a county of our size, we would have to dedicate probably two full-time positions on an annual basis to perform this work. That would be 4,160 man hours for a year's time, and use that as kind of a base point to determine whether it is adequate or not.

Mr. HUGHES. Have you previously testified on behalf of legislation that would provide a 7 day period?

Mr. WHALEN. I have not personally previously testified. I have written letters to members of the committee on McClure-Volkmer and in that fashion made my feelings known, and we have been in discussions with both the International Association and the major city chiefs in regard to McClure-Volkmer and in regard to this legislation.

Mr. HUGHES. How about you, Colonel?

Col. GRUMNEY. I have not personally testified. Basically, testimony has been through the I.A.C.P..

Mr. HUGHES. Well, you know, this subcommittee actually managed the McClure-Volkmer bill on the Floor, in the last Congress, and we developed basically a law enforcement package out of this subcommittee. I want to tell you that you can be very proud of your Congressman, Ed Feighan. He was right there in the trench-

es, attempting to prevent many of the extreme measures that the gun lobby wanted to put through, measures that would have decimated your handgun tracing capability, just for convenience to dealers, and, of course, the ban on machine guns and a whole host of other measures. The subcommittee has been in the forefront of many of the initiatives we talked about. The armor-piercing ammunition initiative generated more heat and less light than gun legislation. It is probably the one part of this committee's jurisdiction that gives us more heartache and pain than any other provision or any other area of jurisdiction.

We deal with drugs all the time. We turn to drugs because it is much easier to deal with and because I think most people, except for the traffickers, are in favor of us doing something about drugs, but trying to develop a rationale, reasonable legislation in this area is one of the most difficult chores that I have ever encountered in my years of service.

Mr. FEIGHAN. Will the chairman yield for a minute?

I would like to follow up on the chairman's question regarding the LEADS system that you have in Ohio.

Mr. Whalen, is the LEADS system a county-based system? Is that a computer-based system that is available to municipalities as well?

Mr. WHALEN. Yes. It is available to municipalities and, again, I can speak to Hamilton County, which our department is a member of, and we have a regional crime information center that is funded by our tax revenue. Other areas of the State, some of the counties, have grouped together a multi-county function, but there are—all 88 counties are tied together through a law enforcement automated data system into Columbus, which again is in turn tied to other regional centers across the State and tied in directly to Washington, DC.

Mr. FEIGHAN. I am just wondering, though, even that—every county in the State is tied into the system, I am wondering about the accessibility of the information of the system to municipalities, to smaller jurisdictions than counties.

Mr. WHALEN. There are certain function identifiers fed into the data terminal, and if you are an authorized law enforcement agency and you have a terminal, the smallest county, the smallest municipality in the county can essentially get the same information that the larger cities in the State can get.

Mr. FEIGHAN. So, based on your experience, would you say that virtually every community in the State has adequate access to the LEADS information?

Mr. WHALEN. To the best of my knowledge, yes, sir. I am not aware of any municipality that does not have some access to the computerized law enforcement information.

Mr. FEIGHAN. Thank you very much.

Mr. WHALEN. Thank you, sir.

Mr. HUGHES. OK, gentlemen. Thank you very much. We really appreciate your contribution today.

ALL. Thank you, Mr. Chairman.

Mr. HUGHES. Our next witness is Honorable Lee Fisher, State Senator from the 25th District of Ohio. He is currently serving in his 7th year in the Ohio legislature. Lee Fisher was first elected to

the Ohio House of Representatives in 1980, and then to the Ohio Senate in 1982.

He was re-elected without opposition in November of 1986 to a second term in the State Senate. He has had a very, very distinguished career in some 7 years in the legislature.

During his 2-year term in the House, he was voted Ohio's Outstanding Freshman Legislator, a poll by the Columbus Monthly Magazine, by his colleagues in both the House and the Senate and the State House Press Corps. He is the author of many bills.

In December of 1983, he was the only elected public official in the nation to be named by Harvard University as a Gordon Chase Memorial Public Leadership Fellow, which enabled him to participate at Harvard's program for senior executives in State and local governments.

He has been named Legislator of the Year or its equivalent by some 11 different organizations in the last 3 years. He is a graduate of Oberlin College and Case Western Reserve School of Law. He is a former law clerk to the United States Court of Appeals for the 6th Circuit, and I could go on and on about his lengthy career in some 36 years.

We are delighted to have you with us this morning. We have your statement, which, without objection, will be made a part of the record. We hope you can summarize it.

Senator.

TESTIMONY OF HON. LEE FISHER, STATE SENATOR FROM OHIO

Senator FISHER. Thank you very much, Mr. Chairman.

Mr. Chairman, I want to begin at the outset by thanking and applauding my friend and colleague, Congressman Ed Feighan, and also my colleague, Senator Howard Metzenbaum, for their outstanding leadership, not only on this issue but many other issues over the years, but particularly this issue.

I want to begin by saying that I believe that it is commonly felt that those of us in the handgun control movement who are politicians exhibit great courage when we introduced the handgun control legislation. I have introduced handgun control legislation consistently in the 7 years that I have been in the Ohio General Assembly.

With all due respect to my friends, Ed Feighan and Howard Metzenbaum, and, of course, even to myself, I do not think we exhibit great courage. Leadership perhaps but not courage, and the reason for that is that I believe the American people want handgun control, and, therefore, it seems to me that you exhibit perhaps courage when you go against the prevailing mood.

Handgun control legislation is very consistent with the prevailing public mood, and, in fact, it is a classic example of perception versus reality, and that is the perception that somehow handgun control is going to be politically suicidal for a politician is, in fact, simply not true. In fact, I have done polls of my own senate district and as you probably know, Mr. Chairman and Congressman Feighan, the Gallup Poll recently indicated as recently as last year, although I understand that since 1938, the Gallup Polls have been consistent, that 60 percent of the American people, your constitu-

ents and my constituents, think the laws on handgun sales should be made stricter while half the proportion, 28 percent, think the present regulations are adequate and only 5 percent feel these laws should be relaxed.

My point being, it ought to be beneficial to politicians to, in fact, support handgun control legislation, and I applaud Congressman Feighan because he, unlike most of the legislators that I have seen in the past, has made sure that his colleagues recognize that fact, otherwise he would not have 100 co-sponsors, and I have taken a look at that list of co-sponsors. It is impressive for its diversity, and I am hopeful that the legislation that Congressman Feighan and Senator Metzenbaum have introduced will serve in a sense a dual purpose.

In addition to illuminating the Federal debate on handgun control legislation, I am also hopeful that this bill will also illuminate or further illuminate the debate on the State level because it seems to me we need both, and it is then, I admit, a little frustrating, over 7 years, to have introduced bills, some of which have been very similar to this bill, and have them met, if you will, with, if anything, inertia because no hearings have even been held on many of those bills for fear that somehow politicians will lose their jobs if they are forced to vote on a bill that most of the American people, in fact, support.

I also want to say that I am testifying today not only as a State senator who has introduced handgun control legislation for the last 7 years, but also as a new national board member of Handgun Control, which is led by Pete Shields.

Sarah Brady, who, as you know, is the vice-chair of Handgun Control, Inc., and after whom this bill is also known as the Brady bill, wishes she could be here today to speak in support of H.R. 975, but, unfortunately, was not able to rearrange her schedule. So, I am testifying in addition also for Pete Shields and Sarah Brady.

I am so pleased also to be here today among so many law enforcement officials because, to me, that exhibits the real trend of this bill. The Brady bill would provide the law enforcement mechanism of the 1968 Gun Control Act which already prohibits convicted felons, those adjudicated mentally ill, minors, illegal aliens, and drug addicts, from acquiring handguns.

H.R. 975 does not change who is legally permitted to purchase handguns, and I want to say, Mr. Chairman, also at the outset that to me the most important thing that I could say is that I believe that any law-abiding citizen who wants to own a handgun ought to have that right, period.

Whether or not it is going to save their lives is, of course, a debatable question, and most studies that I have looked at indicate that having a gun by the night stand, in fact, does not help someone as much perhaps as a phone where they can dial 911. But that is beside the fact.

Yet, this law-abiding citizen wants to have a handgun or if someone wants to use that handgun for recreational or law enforcement purposes, they ought to have the right to do so, and I support that right.

But at the same time, it seems to me that the spirit with which the United States Congress, you and your colleagues, passed the

1968 Gun Control Act after the deaths of Robert Kennedy and Martin Luther King, has been violated time and time again because, in fact, it is nothing but a farce. It is a farce because one has to fill out a form indicating whether or not they are a felon, but no one ever checks to see that they are telling the truth.

In States where waiting periods and background checks are required, thousands of prohibited handgun purchasers have been caught trying to purchase handguns through legitimate channels of Congress. A national waiting period would ensure that handguns are not purchased over the counter in States without waiting periods and then sold on the black market in States that require the waiting period and/or background checks.

Mr. Chairman, the National Rifle Association has been making a number of erroneous claims about this bill, and if I may in my remaining moments, I would like to comment on some of those things, unless they have already been mentioned in the testimony, in which case I am sure you will interrupt me.

First, the NRA claims that this legislation can be extended to include all firearms and extended beyond 7 days. The truth is that the Brady bill applies only to handgun sales. It does not apply to other firearms nor can the waiting period be extended beyond 7 days.

Secondly, the NRA is claiming that this bill is de facto registration. The truth is that this bill would not register or license handguns or handgun owners unless the sale is denied or law enforcement is required to destroy the records within 60 days.

Third, the NRA claims that a waiting period would not have stopped John Hinckley from shooting the President or Press Secretary James Brady and two security men. The truth is that John Hinckley walked into a Dallas pawn shop, gave a false address on a Federal form, and did simply obtain a handgun that he used in this assassination attempt. Had a waiting period been in effect and a background check undertaken, it could have been determined that Hinckley committed a felony by lying on the Federal form and he could have been stopped.

Fourth, the NRA argues that criminals do not purchase their handguns over the counter, and they certainly will not do so if they have to submit to a waiting period. The truth, Chairman Hughes, is that large numbers of criminals and others not qualified to buy handguns have been caught trying to purchase their handguns over the counter.

For example, according to a police sergeant in Memphis, Tennessee, their State's 15-day waiting period screens out about 50 applicants a month, most of whom have criminal records, and according to California Department of Justice, their State's 15-day waiting period last year screened out over 1,500 prohibited handgun purchasers. Maryland's 7-day waiting period caught 732 prohibited handgun buyers just last year.

The NRA finally claims that waiting periods do not prevent criminals from obtaining handguns because criminals will get them from other sources, and yet the truth is that those other sources are States like Ohio without waiting periods. The United States Treasury's Bureau of Alcohol, Tobacco and Firearms Study of Handguns Used in Crimes, entitled Project Identification, found

that the percentage of out-of-state handgun purchases is directly proportional to the strength of local firearm regulations.

Let me give you a few examples. That study found that of handguns used in crime in New York City, for example, only 40 percent, and an amazing statistic for me, were purchased in the State of New York. Virtually all the rest of the handguns in those crimes in New York City were from States without waiting periods, again like Ohio, or without background checks, again like Ohio.

Of all the handguns used in crime in Detroit, only 8 percent of those handguns were purchased in the State of Michigan. Virtually all the rest were purchased in States without waiting periods or background checks, and I am sad to say that because Ohio does not require a waiting period or a background check, Ohio is reported to be the leading supplier of handguns used in crimes in the City of Detroit.

The study found that in States without a waiting period or background checks, an overwhelming majority of handguns used in crimes were purchased within the same State. For example, of all the handguns used in crimes in Dallas, Texas, 87 percent were purchased in the State of Texas.

Finally, Mr. Chairman, the NRA argues that waiting periods should be left up to the States, not the Federal Government. While individual States and many counties and municipalities have passed waiting periods as I am seeking to do in Ohio, a national waiting period is critical because it would ensure that handguns are not purchased over the counter in States without waiting periods and then sold on the black market in States requiring waiting periods and background checks.

Mr. Chairman, I believe that this is a bill whose time has come, and with the leadership of Ed Feighan and Howard Metzenbaum and the very impressive list of co-sponsors, I believe that perhaps finally we will realize that it ought not to take a tragedy, either an assassination attempt or, indeed, an assassination, for our Nation and our States to wake up to the fact that this is legislation, unlike many pieces of legislation, that you and I both authored, that will directly result in a saving of someone's life.

For that reason, perhaps foremost than any other, it seems to me that we ought to be forced to pass this bill out favorably, and I urge you to do so and to pass it, of course, on the whole board.

Thank you.

[Statement of Mr. Fisher follows:]

HANDGUN CONTROL

ONE MILLION STRONG . . . working to keep handguns out of the wrong hands.

TESTIMONY OF STATE SENATOR LEE I. FISHER
25TH DISTRICT OF OHIO

Mr. Chairman, I am here today to testify in support of H.R. 975, not only as a state senator and author of handgun control legislation in the state of Ohio, but also as a new national Board Member of Handgun Control, Inc.

When I was first elected to the Ohio General Assembly in 1980, one of the first pieces of legislation which I introduced was a handgun control bill which included many of the same provisions contained in H.R. 975. I have continued to introduce similar bills for the past seven years, and I am pleased that this proposed federal legislation may in fact serve two purposes. Not only have we illuminated the national debate on handgun control but I believe that this bill will also spur states such as Ohio to more seriously consider state legislative proposals such as my own.

Sarah Brady, who as you know is Vice Chair of Handgun Control, Inc., wishes she could be here today to speak in support of H.R. 975. Mrs. Brady was in Cleveland just a few weeks ago. She is disappointed that the timing of her trip was not able to coincide with this hearing. Sarah hopes she can testify before the Subcommittee in Washington.

H.R. 975, legislation we refer to as the "Brady Bill," which would establish a seven-day waiting period to allow local police to conduct a background check on handgun purchasers, is a law enforcement bill.

I am so pleased to be here today among so many law enforcement representatives. As a citizens organization, we are heavily reliant on the guidance of law enforcement on handgun issues. Every major law enforcement organization has endorsed the "Brady Bill" and there can be no doubt based on the strong police presence here today that law enforcement is solidly behind H.R. 975.

The "Brady Bill" would provide the law enforcement mechanism for the 1968 Gun Control Act which <u>already</u> prohibits convicted felons, those adjudicated mentally ill, minors, illegal aliens and drug addicts from acquiring handguns. H.R. 975 does not change who is legally permitted to purchase handguns. It simply gives police the opportunity to ensure that proscribed people are not able to circumvent the law.

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In states where waiting periods and background checks are required, thousands of prohibited handgun purchasers have been caught trying to purchase handguns through legitimate channels of commerce. A national waiting period would ensure that handguns are not purchased over the counter in states without waiting periods and then sold on the black market in states that require waiting periods and or background checks. A seven-day waiting period would also provide a cooling-off period for temporarily distressed individuals.

The National Rifle Association has been making erroneous claims against this bill. I would like to take this opportunity to clear up some of their misinformation.

First, the NRA claims that this legislation can be extended to include all firearms and extended beyond seven days. The truth is that the "Brady Bill" applies only to handgun sales. It does not apply to other firearms nor could the waiting period be extended beyond seven days.

The NRA claims that the "Brady Bill" is de facto registration. The truth is that this bill would not register or license handguns or handgun owners. Unless the sale is denied, law enforcement is required to destroy the records within sixty days.

The NRA claims that a waiting period would not have stopped John Hinckley from shooting the President, Press Secretary James Brady and two security men. The truth is that John Hinckley walked into a Dallas pawn shop, gave a false address on the federal form and instantly obtained the handgun he used in the assassination attempt. Had a waiting period been in effect and a background check undertaken, it could have been determined that Hinckley committed a felony by lying on the federal form and he could have been stopped.

The NRA argues that criminals do not purchase their handguns over the counter and they certainly will not do so if they have to submit to a waiting period. The truth is that large numbers of criminals and others not qualified to buy handguns have been caught trying to purchase their handguns over the counter. For example, according to a police sergeant in Memphis, Tennessee, their state's fifteen-day waiting period screens out about 50 applicants a month, most of whom have criminal records. According to the California Department of Justice, their state's fifteen-day waiting period last year screened out over 1500 prohibited handgun purchasers. Maryland's seven-day waiting period caught 732 prohibited handgun buyers in 1986.

The NRA claims that waiting periods do not prevent criminals from obtaining handguns because criminals will get them from other sources. The truth is that those "other sources" are the states without waiting periods. The Treasury's Bureau of Alcohol, Tobacco and Firearms' study of handguns used in crime, entitled, "Project Identification," found that "the percentage of out-of-state [handgun] purchases is directly proportional to the strength of local firearms regulations."

For example, the study found that of handguns used in crime in New York City, only four percent were purchased in the state. Virtually all the rest were from states without waiting periods or background checks. Of all the handguns used in crime in Detroit, only eight percent were purchased in Michigan. Virtually all the rest were purchased in states without waiting periods or background checks. And I am sad to say that because our state does not require a waiting period or background check, Ohio was reported to be the leading supplier of those handguns used in crime in Detroit.

The study found that in states without waiting periods or background checks, an overwhelming majority of handguns used in crime were purchased within the same state. For example, of all the handguns used in crime in Dallas, 87 percent were purchased in Texas.

The NRA argues that waiting periods should be left up to the states, not the federal government. While individual states, many counties and municipalities have passed waiting periods -- as I am seeking to do in Ohio -- a national waiting period is critical because it would ensure that handguns are not purchased over the counter in states without waiting periods and then sold on the black market in states that require waiting periods and or background checks.

I thank you for the opportunity to present this testimony before you today and I urge that you report H.R. 975 out of Subcommittee favorably.

Mr. HUGHES. Thank you.

Senator, what is the status of your legislation in Ohio?

Senator FISHER. It is the same as it has been for 7 years. Dormancy. As you know, Mr. Chairman, the best way to kill a bill is not to have a hearing at all. I wish that we could have progressed to the point of having hearings like you have.

When I first introduced my bill in 1980, there were, in fact, some hearings. There have not been hearings since, and I have introduced, in fact, several bills, one of which is almost identical to the Feighan-Metzenbaum bill. Other bills also deal with the whole issue of liability insurance, plastic guns, which I believe Congressman Feighan is also taking a leadership role in, and other similar issues.

Mr. HUGHES. Well, you know, one has to ask, is the public clamoring for reasonable controls? There seems to be a great deal of logic behind a waiting period to give police organizations an opportunity to examine whether or not the applicant is a convicted felon or somebody with a mental history. Somebody who is really unsuitable for such a purchase.

Well, the answer, I am sure you know, why legislation does not move and why, when you include waiting periods in the context of firearm legislation, ends up being stripped down, is because, unfortunately, the gun lobby, while they are very vocal, has one factor going for them. They are very well organized.

I remember that in the last Congress when we had McClure-Volkmer before the House, I had as many as a dozen Members of Congress come to me and say to me in one form or another, the police will forgive me, the NRA never will, and that is basically the attitude.

I saw more Members of Congress that had committed to me that they would not sign the discharge petition, end up signing the discharge petition, and discharging our committee, even though we had reported gun legislation, because of the tremendous pressure they were receiving from this special interest lobby back in their districts.

They have the capability of putting into your district overnight 10,000 letters. Unfortunately, the police have not been very organized, and while people want responsible legislation, there has not been the clamor that is necessary to get responsible legislation through the Congress, and I suspect that is the case in the legislature.

Senator FISHER. Mr. Chairman, you are absolutely right, and I do believe that there is one political lesson to be learned by this debate. It is that those of us who are in favor of handgun control, I would prefer, by the way, to call it crime control because it seems to me that does not raise the red flag and at the same time means the same thing, we ought to be better organized, and I think finally we are.

Handgun Control, Inc., I think, is the best example of that. Just 7 to 8 years ago, when I began getting involved in this movement, Handgun Control, Inc., was not particularly well organized. Because of the efforts of the Handgun Control Federation of Ohio and their State support, who I know will be testifying today, and the leadership of people like Pete Shields and Sarah Brady, I do believe

that we are finally understanding that the squeaky wheel does, in fact, get the grease in politics and in government, and that being right on the issue is sometimes not enough, that having the facts on your side sometimes is not enough, you also have to have political clout and organization on your side, and I am hopeful that my brothers and sisters in the law enforcement community will also take that lesson to mind and perhaps not forgive those Congressmen and women who, in fact, vote against them, just as the NRA is not particularly forgiving, because I think in the political world, sometimes, our memories need to be longer, so that people understand that, in fact, we are serious about what we are doing.

Mr. HUGHES. Well, we made major strides in the 99th Congress. For the first time, we have a community organization and the organization, I think, was due in large measure to a so-called "Cop-killer Bullet" legislation or "Armor-piercing Ammunition" legislation.

Frankly, I think police were just appalled at just how the gun lobby dismissed their concerns out of hand. They are the ones that were on the firing line. They are the ones that were in jeopardy, and their families were concerned that they would be the victims of a cop killer bullet, bullets that are out on the marketplace, and as a result of the intransigence of the gun lobby on that issue, we saw an organization develop at the national level that I have never seen before. It was very helpful in the context of the McClure-Volkmer debate when we brought that legislation to the Floor, to see the police organizations, I think for the first time in this country, organized and attempting to make their voices heard.

I must say I was somewhat disappointed after the last vote with the scorching that some of the members took. Many members in rural districts took a lot of heat after the election. The NRA was out there rewarding their compatriots with all kinds of contributions, and I really was sorry that the police organizations around the country did not say to the people that stood up with them, you know, thank you publicly. Here is a friend of the police.

That is how you really build the support in the Congress and in the legislative bodies with measures that are very controversial. Many members said to me, when they came up before and even after the vote on key issues on McClure-Volkmer, you know, Bill, I know you are right, but, frankly, they just are driving me crazy back home. I had a town hall meeting last week and I just could not get through that hour without arguing most of it with some of the people from the gun lobby who had sent out all kinds of distorted material and they just ruined my day, and they came into my office last week and they were picketing my office, and they were in there giving my staff a very bad time over gun legislation. Frankly, I do not need that aggravation.

I heard that time and time again.

Senator FISHER. Mr. Chairman, I would just say that over the last 7 years, I have had many discussions with my friends in the handgun or crime control units and they have expressed great frustration at my bill and other similar bills that have not moved, and I think—I have said to them repeatedly, much like you just said, that we have to understand that every study that comes out and every Gallup Poll that comes out, despite the fact that it supports

our position, does not mean anything and handgun control advocates do not get involved in the political and legislative process, and when handgun control advocates, for example, like Ed Feighan, who are up for re-election, that it makes sense to go out there and to say thank you and the way to say thank you to people like him is to help him get re-elected so that he can continue the leadership on the issue.

That lobbying does not begin and end after election. It is a constant process, and I believe that finally those of us on the handgun control movement are beginning to understand that, and as a result, understand that it is not just lobbying the halls of Capitol Hill, it is also lobbying from the streets of Cleveland or the streets wherever handgun control supporters are in fact exercising leadership, because that, in the end, will make us as powerful and hopefully more powerful than the NRA some day.

Mr. HUGHES. Thank you.

Mr. Feighan.

Mr. FEIGHAN. Thank you, Mr. Chairman.

I would like to begin by thanking my good friend and colleague, Lee Fisher, for being here today. It would not be a complete hearing without your presence, that is for sure, because you have been such a vocal and visible figure on gun control matters in the State of Ohio, and while you may not be persuading the majority of your colleagues yet, I know with your intensity and vigor, it will not take long.

I mentioned in my opening statement, Senator, that I have regretted that the NRA declined our invitation to be here today because I think it is important that they hear particularly the comments that have been made just in the past 5 or 10 minutes in the colloquy between yourself and the chairman, because I do think that it reflects the sentiment of a majority of Americans.

It is unfortunate the influence the NRA has, but it is very real. As the chairman has indicated, it is an excessively-funded organization. It has more than $60 million to spend every year in promoting its view. It is wonderful that this is a country that allows the promotion of virtually any view. I do not think that that should ever be constrained in any respect.

My basic objection to the politicking of the NRA on this issue, I mean, and other related issues has been their complete use of deception and dishonesty. I have been the victim of that as you have, as I know the chairman has been in his home State, because of his support for sensible gun control legislation.

I think the Miami Herald, in one of its editorials, perhaps best characterized the nature of the NRA when they described it as the meanest, most unforgiving lobby in the land. Now, that is a powerful indictment of an organization that is attempting to present the views of its large number of members from across the country before the United States Congress and before a large number of State legislatures.

I recall getting a phone call, if I might just tell you this anecdote, last October from a constituent of mine, saying he just received a letter from the NRA and he was concerned about the letter and concerned about his future, because the letter said, Dear Mr. So and So, if Ed Feighan gets re-elected, you will go to jail.

Well, the reason there was such an enormous amount of concern is that this constituent was 37 years old. Now, this 7-year-old had been enrolled by his father in a sporting organization and that mailing list apparently had been purchased and used then by the NRA or supporters on behalf of promoting the NRA position.

But that is not atypical of the kind of dishonesty and deception and intimidation, unfortunately, the NRA is engaged in.

I also mentioned in my opening remarks that I found it curious, and I would like to ask you to speculate with us, if you could, knowing that you are not a NRA spokesman, but if you could speculate on why there has been a change of heart, a change of attitude at the NRA.

It was only a few years ago that the NRA had, in fact, endorsed a waiting period, a national waiting period, as stated in one of their legislative publications, that they believed that a national waiting period for the purchase of a handgun was an effective means of reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring guns.

In your experience over the past several years in dealing with this organization and working so intently on these issues, could you speculate for us why you think the NRA would change its position now and work so vigorously against passage of a national waiting period?

Senator FISHER. Congressman Feighan, I think there are at least two reasons. I might add, by the way, that in addition to that, the Reagan Administration's 1981 Attorney General's Task Force on Violent Crime also recommended a waiting period. So, it is not as if one particular party has a monopoly on this particular issue. It seems to me that even President Reagan's own Task Force on Violent Crime felt there ought to be a waiting period.

I think there are two reasons, Congressman Feighan. First, I think that, frankly, until recently, the NRA did not fear those who are in the handgun control movement because as we were talking really here, they did not see the kind of political sophistication and organization that they had been able to cultivate for years.

All of a sudden, they are beginning to see, particularly with the leadership of Handgun Control, Inc., and State organizations, like the Handgun Control Federation of Ohio, that people who are for handgun control are also exercising a great deal of political clout, which then operates on the theory that we see all the time in State legislature and Federal legislature, and that is the foot-in-the-door theory, and that is the NRA is afraid that once those who are in favor of handgun control get their foot-in-the-door, that they will start wanting to go to registration and then from there banning all handguns.

It is an absurd, ludicrous, emotionally-laden argument that, unfortunately, wins supporters. In other words, what they are saying is even if we admit to you privately in a rationale discourse that waiting periods make sense, I believe that most NRA members believe, I honestly believe this based on conversations I have had with many of them, that they believe that this legislation does make sense, and that they are for waiting periods.

They are afraid or at least, if not afraid, think that it is a convincing and persuasive argument to make, that if you pass legisla-

tion like this, that some day we will be taking guns away from people.

Well, perhaps the best example, although it has some flaws, is the fact that for years, we have been doing similar things, of course, with automobiles, and I have yet to hear anyone in the private or public sector think the next step is let us take away everybody's car.

While there are lots of flaws and holes in that analogy, of course, the point being that it is a ludicrous argument, but, nevertheless, it appeals to peoples' worst fears, and it is the supreme irony that the Handgun Control, Inc., campaign recently has called—I should say the NRA campaign recently has called Handgun Control, Inc., a hate organization.

What they have done is turned the argument around and simply bandied about terms and called those who are in favor of handgun control a hate organization because they are appealing to people's rational sense as opposed to their fear, and I think that in the bottom line that, number one, they are afraid of the political clout of Handgun Control, Inc., and handgun control supporters, and, two, they see great potential in the foot-in-the-door theory by making people afraid of the fact that perhaps even though this is a rational move, some day their guns will be taken away.

I, for one, am not in favor of a ban on handguns, and most of my colleagues in the handgun control movement are not in favor of a ban on handguns. As I said at the outset, whether or not it protects someone, I believe that anybody who is a law-abiding citizen without a criminal record has the right and should have the right to own a handgun.

Mr. FEIGHAN. Thank you again for your presence here today, and I really think that your courage on this issue has been a real inspiration to a number of people in the community and to your colleagues.

Thanks very much.

Mr. HUGHES. Thank you very much, Senator.

Senator FISHER. Thank you very much.

Mr. HUGHES. Our second panel today consists of the representatives of the rank and file of American law enforcement, the officers on patrol around the nation.

Our first witness is Mr. Dewey Stokes, the National President of the Fraternal Order of Police, the nation's largest association of police organizations.

Second is Mr. Peter Lawyer, the Executive Director of the Northern Ohio Patrolmen's Benevolent Association, testifying on behalf of the National Association of Police Organizations.

Third is Mr. Darwin McGlumphy, the First Vice President of the Ohio Union of Patrolmen Associations, on behalf of that organization.

Gentlemen, we welcome you here today. We have your statements and, without objection, they will be made a part of the record, and we hope that you will testify as you see fit.

First, let us begin with you, Mr. Stokes. Welcome.

TESTIMONY OF DEWEY STOKES, NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE

Mr. STOKES. Thank you, Congressman Hughes.

I would like to introduce Jim Ernie, who is the Local President of the Fraternal Order of Policemen in Ohio, and all my other associates that are here with us today.

As you said, I submitted my statement to you and I have a summary statement that I would like to read this morning for the record and those present. I think it brings out some facts that are very close, and I was glad to hear the doctor's remarks this morning also.

Mr. Chairman and members of the subcommittee, I am Dewey Stokes, National President of the Fraternal Order of Police. The Fraternal Order of Police is the largest member organization of professional law enforcement personnel in the United States.

The Fraternal Order of Police consists of almost 200,000 members of our organization. Our purpose is to support and defend the Constitution of the United States, to promote and foster the enforcement of law and order, and thus more firmly to establish the competence of the public in a service dedicated to the protection of life and property.

The members of the Fraternal Order of Police believe and have resolved that I express to you our strong support for legislation requiring a waiting period for the handgun purchase. I have submitted for inclusion in the record a copy of a resolution passed by our voting delegates, numbering over 2,100, this past August at our biannual conference.

Let me first state for the record that the Fraternal Order of Police is firmly committed to the right of people to keep and bear arms. It is our firm view that H.R. 975 does not infringe upon this very important right. Instead, H.R. 975 is a limited and carefully designed piece of legislation directed at a specific problem. It does not prohibit a person from purchasing a handgun. It merely provides a momentary pause during which the mechanism of our government may determine whether the person proposing to purchase a handgun is legally entitled to do so.

This legislation has absolutely no effect whatsoever on who may or may not purchase a handgun. It merely elongates the process. Further, this legislation deals only with handguns, the principal firearm used by persons involved in crime and one of the primary instruments of persons involved with a crime or acts of passion.

This subcommittee is undoubtedly aware of the many instances in which persons prohibited by law have been able to purchase handguns over the counter by reasons of absence of meaningful governmental involvement. This legislation in no way restricts the purchase of handguns to anyone. The legislation merely allows sufficient time to determine whether the person proposing to purchase a handgun is otherwise already prohibited from doing so.

We all read with horror about the individual who entered the brokerage house in Florida recently, killed the broker, wounded another, and then killed himself as a result of a recent stock crash. Apparently this individual became despondent over the losses he sustained.

The passage of this legislation would not eliminate the purchase of a handgun by a convicted felon or a person otherwise under legal disability. However, the 7-day waiting period does provide an opportunity to prevent the purchase by some individuals as well as those temporarily despondent and thereby prevent some of the tragic consequences of these purchases.

All we are asking for in supporting H.R. 975 is to bring some sanity to the sale of handguns. We read with interest the monumental efforts of our government to achieve arms control for the safety of our citizens of this country. On the other hand, in the United States, there are approximately 2.5 million new handguns purchased every year. It is estimated that there are 250,000 more guns in Detroit, Michigan, than there are people.

It does not lead this country or the County or State of Detroit, Michigan, but it is certainly one of the leaders in murders in this country and Detroit alone, in 1 year, 365 children were shot equal to one child a day, and 44 of those children died as a result of those shootings.

Approximately 70 percent of all law enforcement officers that are killed in the line of duty are killed with a handgun. Could every child shot with a handgun or every shooting or killing be prevented by H.R. 975? Undoubtedly not. But we cannot refuse to enact H.R. 975 when it undoubtedly will prevent one, two or, hopefully, many more of these tragedies from occurring.

This legislation does not constitute gun control, but merely provides an opportunity to avoid a tragedy before the handgun leaves the store. It provides the sanity that we believe will save lives and prevent personal injury.

A second and significant benefit to H.R. 975 and the waiting period contained therein is in the cooling-off period. We have all read about instances involving individuals who are distraught or disturbed but are otherwise not legally disabled, have rushed to the nearest gun store, purchased a handgun and injured or killed themselves or others.

Every homicide unit in a major city in the United States can point to several incidences each year where a cooling-off period would have saved a life. We learn only after the tragedy that many of these incidents could have been prevented or avoided had the perpetrator been forced to wait the 7 days, and in some cases, just 7 hours before taking possession of a handgun.

This legislation does not prohibit the purchase of handguns by disturbed persons. However, it does prevent the spontaneous purchase of a handgun. A handgun purchase should not simply be an impulse purchase. Frequently, purchases by the consuming public are made on an impulse basis. In some cases, that is a good idea. I think I will buy one, they say.

However we feel about the purchase of handguns, it cannot be argued that the purchase of a handgun is not a significant and serious purchase and should be given serious thought. Allowing persons to purchase handguns on the spur of the moment simply enhances the likelihood that a person who, after a short period of reflection would decide otherwise, would purchase a handgun and do something that they or others would later regret.

Would the individual in Florida have committed a murder had he been forced to wait 7 days? Would President Reagan and Jim Brady have been shot had Hinckley been forced to wait 7 days? Such questions are endless. The cases of despondent individuals who, in the depths of despondency, purchase a handgun and in isolation and in tragedy take their own lives are numerous. Were those individuals required to wait those 7 days, some hope remains that the ultimate decision might be different.

To the extent that H.R. 975 might save one life, might prevent one suicide, or might eliminate one injury, H.R. 975 is justified. We of the Fraternal Order of Police believe that the benefit to be derived from the 7-day waiting period is far greater than saving one life, although one life alone would justify this legislation in our opinion.

The process of weighing costs and benefits is difficult. Yet, that benefit is worth the cost of 365 children's lives. As this country's law enforcement officers, we are asked to confront many serious, often insurmountable problems. We are asking for your help in dealing with one of the most significant problems, the indiscriminate sale of handguns to persons who are prohibited by law to purchase weapons and to purchase by temporarily or permanently unstable persons, who, with only a 7-day reflection upon their situation, would not kill or injure citizens, themselves, or hard-working devoted law enforcement officers.

We urge your support and the committee's support for H.R. 975. It is a rational and reasonable response to a terrifying problem for all of us and most especially law enforcement officers charged with the responsibility of protecting your constituents and our citizens, and I want to thank you, Chairman Hughes and Mr. Feighan, for the opportunity to be here to offer our personal testimony.

[Statement of Mr. Stokes follows:]

STATEMENT OF THE

FRATERNAL ORDER OF POLICE

BEFORE THE

HOUSE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CRIME

ON H.R. 975, SEVEN-DAY WAITING

PERIOD FOR HANDGUN PURCHASES

NOVEMBER 30, 1987

PRESS RELEASE

FOR IMMEDIATE RELEASE
NOVEMBER 30, 1987

DEWEY R. STOKES, PRESIDENT
NATIONAL FRATERNAL ORDER
OF POLICE
(614) 221-0180

NATIONAL F.O.P. URGES DOMESTIC ARMS CONTROL

Cleveland, Ohio -- Dewey Stokes, President of National Fraternal Order of Police, testified today before the House Committee on the Judiciary's Subcommittee on Crime in support of H.R. 975, which provides for a mandatory 7-day waiting period to purchase a handgun. The F.O.P. is the largest organization of law enforcement officers in the United States, consisting of police, sheriff's deputies, state troopers, federal law enforcement officers and virtually every other kind of law enforcement officer in the United States.

Stokes urged the Subcommittee to help bring some sanity to the purchase of handguns, citing the purchase of 2.5 million handguns in this country each year. H.R. 975, Stokes urged, will allow time to detect and prevent handgun purchases by those who are prohibited by existing law from such purchases. It will also provide a "cooling off" period for people who, in fits or rage or depression, buy handguns and kill themselves or others. Stokes cites the recent case of a Florida investor who killed a stockbroker and himself after purchasing a handgun.

Stokes emphasized that H.R. 975 is not gun control -- it does not change existing law as to who may or may not purchase a handgun. H.R. 975 merely requires 7 days between purchase and possession. Stokes urged the Subcommittee's support for H.R. 975.

A. National: Mr. Stokes is currently the President of the Grand Lodge Fraternal Order of Police, the national organization of almost 200,000 law enforcement professionals. For the past 12 years, Mr. Stokes has actively served the Fraternal Order of Police, serving on various committees and holding various offices. Prior to his presidency, Mr. Stokes served as Vice President for two years. In addition, Mr. Stokes served as chairman or a member of the Audit, National Legislative, Labor and Inventory Committees, liason to the Ladies Auxilliary and on the National Police Officers Memorial Committees.

B. State: Mr. Stokes has served in various capacities in the Ohio State Fraternal Order of Police Lodge for the past 16 years, including Chairman of the Recruitment Committee which was responsible for the addition of the nine lodges and over 900 members.

C. Local: Mr. Stokes has served the Capital City Lodge No. 9 for 20 years and serves as its President. Mr. Stokes has served as President for ten years of the Local Lodge which is the largest lodge in the state, representing 28 law enforcement agencies and over 2,400 members from Federal, State, County and Municipal law enforcement agencies. Mr. Stokes successfully obtained written work contracts with the City of Columbus, Franklin Sheriff's Department and sixteen other suburban departments.

In his capacity as President, Mr. Stokes has served as Co-Chairman of the Easter Seals campaign, and for three years raised more money than any other lodge in the United States.

DEWEY R. STOKES

BIOGRAPHY

I. Personal

Mr. Stokes lives in suburban Columbus, Ohio, with his wife of 25 years, Florence M. Stokes. Mr. and Mrs. Stokes are the parents of four children (Lisa, 24; Carla, 22; Sean, 20; and Julie, 17.) Among the numerous personal honors, awards and recognitions Mr. Stokes has received are:

Boys Clubs of America Bronze Keystone Award
Kiwanian of the Year Award, Franklinton, Ohio
President of Kiwanis Club, Franklinton, Ohio
Columbus Jaycee's "Outstanding Police Officer of the Year" award
Founder and President of West Side Boys' Club Alumni Association
Board of Directors, member, Boys Club of Columbus
Franklin County Litter Prevention Board, member
Advisory Board, member, "Operation America Loves You" (foreign food provision)
Co-Chairman, Great Southwest Boys Scouts of America fundraiser
Franklin County Mental Health and Retardation Board, member
Founder of Holy Family Alumni Association

II. Professional

Mr. Stokes has served as an active police officer with the Columbus Division of Police for the past 20 years. He has served in virtually all facets of police work in this large metropolitan city. His assignments have included uniform patrol, ambulance/cruiser, one-officer patrol car, "beat officer," tactical unit and Organized Crime Bureau. In addition, Mr. Stokes has received Departmental Commendations for his service.

III. Fraternal Order of Police

Mr. Stokes has actively participated in the affairs and business of the Fraternal Order of Police at the National, State and local levels.

Good morning. Mr. Chairman, Members of the Subcommittee, I am Dewey Stokes, National President of the Fraternal Order of Police. The Fraternal Order of Police is the largest member organization of professional law enforcement personnel in the United States. Our organization is comprised of local lodges belonging to state lodges which, in turn, belong to the Grand Lodge, of which I am National President. I am also President of my local lodge (No. 9), Columbus, Ohio.

The Fraternal Order of Police consists of almost 200,000 members, including municipal police officers, state troopers, sheriff's deputies, federal law enforcement officers and virtually every other form of law enforcement officer in the United States ranging from the rookie to the chief of police.

Our organization's purpose, as stated in the Preamble to our Constitution, states, inter alia:

> "To support and defend the Constitution of the United States ... to promote and foster the enforcement of law and order ... and thus more firmly to establish the confidence of the public in the service dedicated to the protection of life and property."

Our membership consists of devoted men and women of all races, colors, and national origins who share these common goals, and we are very grateful to be afforded this opportunity to appear before your distinguished Subcommittee to participate in these hearings.

Mr. Chairman, the members of the Fraternal Order of Police believe and have resolved that I express to you our strong support for legislation requiring a waiting period on handgun purchases. I have submitted for inclusion in the Record a copy of the resolution passed by the voting delegates, numbering over 2,100, in August, 1987 at our Biennial Conference, which sets forth our statement of support for a waiting period for handgun purchases.

Let me first state for the Record that the Fraternal Order of Police is firmly committed to the "right of the people to keep and bear Arms." It is our firm view that H.R. 975 does <u>not</u> infringe upon that very important right. Instead, H.R. 975 is a limited and carefully designed piece of legislation directed at a specific problem. It does not prohibit persons from purchasing handguns -- it merely provides a momentary pause during which the mechanisms of government may determine whether the person proposing to purchase a handgun is legally entitled to do so. This legislation has absolutely no affect whatsoever on who may or may not purchase a handgun -- it merely elongates the process. Further, this legislation deals only with handguns -- the principal firearm used by persons involved in crimes and one of the primary instrumentalities of persons involved in crimes or acts of passion. This legislation has no meaningful effect upon hunters or other interested gun collectors whose purpose in acquiring a handgun is legitimate. The legislation merely allows time to determine whether the person proposing to purchase the handgun is permitted by law to do so or, equally as important, to

allow the person proposing to purchase the handgun some time to reflect upon the purchase, if necessary.

First, with respect to the issue of allowing time to determine whether the person proposing to purchase the handgun is permitted by law to do so. This Committee is, undoubtedly, aware of the many instances in which persons prohibited by law have been able to purchase handguns over the counter by reason of the absence of any meaningful governmental involvement. This legislation in no way restricts the purchase of handguns to anyone. The legislation merely allows sufficient time to determine whether the person proposing to purchase a handgun is otherwise already prohibited from doing so. Our newspapers are replete with instances of convicted felons purchasing handguns and committing offenses prior to the paperwork catching up with the purchase. We all read with horror about the individual who entered a brokerage house in Florida recently, killed a broker, wounded another and then killed himself, as a result of the recent stock "crash." Apparently, this individual became despondent over losses he sustained. The passage of this legislation will not eliminate the purchase of handguns by all convicted felons or persons otherwise under legal disability. However, the seven-day waiting period does provide an opportunity to prevent purchases by some of such individuals, as well as the temporarily depondent and, thereby, prevent some of the tragic consequences of these purchases.

All we are asking for, in supporting H.R. 975, is to bring some sanity to the sale of handguns. We read with interest

of the monumental efforts of our government to achieve arms control for the safety of our citizens. Yet, not one person has yet been (and we hope never will be) killed by these arms. On the other hand, in the United States, there are approximately 2.5 million new handguns purchased every year. It is estimated that there are 250,000 more guns in Detroit, Michigan than there are people. If it does not "lead" the country, Detroit is certainly one of the "leaders" in murders. In Detroit alone, in one year, 365 children were shot -- equal to one child per day -- and forty-four of those children were killed. Approximately 70% of all police officers killed in the line of duty are killed by handguns. Was every child shot with a handgun? Would every shooting or killing be prevented by H.R. 975? Undoubtedly not. But can we refuse to enact H.R. 975 when it will undoubtedly prevent one, two or, hopefully, many more of these tragedies?

We are all aware of the many groups that have effectively lobbyed against "gun control." This legislation does not constitute gun control but merely provides an opportunity to avoid tragedy before the handgun leaves the gun store. It provides the sanity that we believe will save lives and prevent personal injury.

A second and significant benefit of H.R. 975 and the waiting period contained therein is the "cooling off period." We have all read about incidents involving individuals who, distraught or disturbed (but not otherwise under legal disability,) have rushed to the nearest gun store, purchased a handgun and injured or killed themselves or others. Every

homicide unit in a major city in the United States can point to several incidents each year where a "cooling off" [seven (7) day waiting] period would have saved a life. We learn, only after the tragedy, that many of these incidents would have been avoided had the perpetrator been forced to wait seven days (and often seven hours) before taking possession of a handgun. This legislation does not prohibit the purchase of handguns by disturbed persons; however, it does prevent spontaneous purchases of handguns. A handgun purchase should not be simply an impulse purchase. We are aware that millions of dollars are spent annually by marketing experts determining what products will be purchased on impulse (and note that they are often displayed at cash registers of our local groceries.) These items, and many others, are frequently purchased by the consuming public on an impulse basis -- "That's a good idea -- I think I'll buy one." However we may feel about the purchase of handguns (and we acknowledge substantial differences of opinion in this regard,) it cannot be argued that the purchase of a handgun is not a significant and serious purchase which should be given serious thought. Allowing persons to purchase handguns on the spur of the moment simply enhances the likelihood that persons who, after a short period of reflection would decide otherwise, will purchase a handgun and do something that they or others will later regret. Would the individual in Florida have committed the murder had he been forced to wait seven days? Would President Reagan and Jim Brady have been shot had Hinckley been forced to wait seven days? Such questions are endless. The cases of

despondent individuals who, in the depths of despondency, purchase a handgun and in isolation and tragedy take their own lives are numerous. Were those individuals required to wait seven days, some hope remains that their ultimate decision might be different. To the extent that H.R. 975 might save one life, might prevent one suicide, might eliminate one injury; H.R. 975 is justified.

We believe the benefit to be derived from a seven-day waiting period is far greater than saving one life (although, one life alone justifies such legislation.) The process of weighing costs and benefits is difficult; yet, what benefit is worth the cost of 365 childrens' lives? As this country's law enforcement officers, we are asked to confront many serious, often insurmountable problems. We are asking for your help in dealing with one of our most significant problems -- the indiscriminate sale of handguns to persons who are prohibited by law to possess weapons and the purchase by temporarily or permanently unstable persons who, with only seven (7) days to reflect upon their situation, would not kill or injury citizens, themselves or hard-working, devoted law enforcement officers.

We urge your support for H.R. 975 -- it s a rational and reasonable repsonse to a terrifying problem for all of us and, most especially, law enforcement offiers charged with the responsibility for protecting our citizens.

Thank you.

RESOLUTION NO. 8

The below resolution was proposed by the National Legislative Committee of the Grand Lodge, adopted April 29, 1987.

WHEREAS: The immediate availability of handguns to persons intent upon violence poses a threat to both citizens and law enforcement officers, and

WHEREAS: Violent action which might otherwise occur spontaneously may be prevented if a "cooling off" period intervenes, and

WHEREAS: A reasonable period of time is needed prior to the sale of a handgun to allow law enforcement agencies to check for criminal record prohibitions on such sale, and

WHEREAS: No need has been established for the immediate procurement of handguns which outweighs these concerns.

NOW, THEREFORE BE IT RESOLVED:

That the members of the Fraternal Order of Police here assembled in Mobile, Alabama for the Forty-Eighth Biennial Conference of this Order direct the Legislative Committee to support legislation requiring a waiting period on handgun purchases, and further directs the Legislative Committee to support legislation which enhances the safety of law enforcement officers and reduces the exposure of the public to firearm related dangers.

THIS RESOLUTION WAS PASSED

AT THE

48TH BIENNIAL CONFERENCE

OF THE

NATIONAL FRATERNAL ORDER OF POLICE

August 9-15, 1987

Mobile, Alabama

Mr. HUGHES. Thank you, Mr. Stokes. Mr. Lawer, welcome.

TESTIMONY OF PETER LAWER, EXECUTIVE DIRECTOR, NORTHERN OHIO PATROLMEN'S BENEVOLENT ASSOCIATION, ON BEHALF OF THE NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

Mr. LAWER. Good morning, Mr. Chairman, and Mr. Feighan.

Mr. HUGHES. Pull your microphone forward, Mr. Lawer.

Mr. LAWER. Ladies and gentlemen.

My name is Peter Lawer, and I am the Executive Director of the Northern Ohio Patrolmen's Benevolent Association, NOPBA, which is comprised of over 2,000 working and retired law enforcement officers in Ohio.

I am also Vice President for the National Association of Police Organizations, NAPO, which represents more than 70,000 working and retired police officers throughout the United States.

I am speaking to you today as both the Executive Director for the NOPBA and as the Area Vice President of NAPO.

It has become clear that the sale of handguns to criminals, drug abusers and the mentally deranged has become a national problem of major proportions. The annual national fatality rate of over 20,000 through the misuse of handguns, including many police officers, and the serious non-fatal injuries these weapons cause, make prompt congressional action imperative.

Federal legislation has been introduced which will allow the police to conduct a background check on people seeking to buy handguns and would disqualify those with a criminal record or with a history of mental illness. The NOPBA and NAPO is of the view that such legislation is urgently needed to protect the public and give local police departments the opportunity to determine the qualifications of potential gun purchasers as well as to ensure that those who are entitled to obtain handguns are prevented from buying them.

A recent tragedy that could have been avoided had such legislation been in effect is the shooting that took place in Miami, Florida. In that incident, Arthur Kane shot and killed his stockbroker with a handgun. He had bought it only 45 minutes before using it. He was a convicted felon and would have been prohibited from purchasing a gun.

As Congressman Feighan has said, waiting periods deter criminals. We can stop some of these senseless handgun murders by passing legislation that cracks down on known criminals who try to obtain handguns. We urge all congressmen to support Congressman Feighan's bill, H.R. 975, as it is legislation that is sorely needed.

Thank you for allowing me this opportunity to testify today.

Mr. HUGHES. Thank you, Mr. Lawer.

[Statement of Mr. Lawer follows:]

TESTIMONY OF

PETER LAWER, EXECUTIVE DIRECTOR

NORTHERN OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

AND

AREA VICE PRESIDENT OF

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

My name is Peter Lawer. I am Executive Director of the Northern Ohio Patrolmen's Benevolent Association (NOPBA), which is comprised of over 2,000 working and retired law enforcement officers in Ohio. I also am area Vice President for the National Association of Police Organizations (NAPO), which represents more than 70,000 working and retired police officers throughout the United States.

I am speaking to you today as both the Executive Director for the NOPBA and as the area Vice President of NAPO.

It has become clear that the sale of handguns to criminals, drug abusers, and the mentally deranged has become a national problem of major proportions. The annual national fatality rate of over 20,000 through the misuse of handguns, including many police officers, and the countless serious non-fatal injuries these weapons cause make prompt congressional action imperative.

Federal legislation has been introduced which would allow the police to conduct a background check on people seeking to buy handguns and would disqualify those with a criminal record or with a history of mental illness.

The NOPBA and NAPO is of the view that such legislation is urgently needed to protect the public and give local police departments the opportunity to determine the qualifications of potential gun purchasers, as well as to insure that those who are not entitled to obtain handguns are prevented from buying them.

A recent tragedy that could have been avoided had such legislation been in effect is the shooting that took place in Miami, Florida. In that incident, Arthur Kane shot and killed his stockbroker with a handgun he had bought only 45 minutes before using it. He was a convicted felon and would have been prohibited from purchasing a gun.

As Congressman Feighan has said: "Waiting periods deter criminals. We can stop some of these senseless handgun murders by passing legislation that cracks down on known criminals who try to obtain handguns."

We urge all congressmen to support Congressman Feighan's bill, HR 975, as it is legislation that is sorely needed.

Thank you for allowing me this opportunity to testify today.

Mr. HUGHES. Mr. McGlumphy, welcome.

TESTIMONY OF DARWIN McGLUMPHY, FIRST VICE PRESIDENT, OHIO UNION OF PATROLMENS ASSOCIATION, TALLMADGE, OH

Mr. MCGLUMPHY. Congressman Hughes, Congressman Feighan, and Senator Metzenbaum, I want to thank you for the opportunity to testify today.

My name is Darwin McGlumphy, and I am the President of the Akron Police Patrolmens Association and Vice President and Legislative Chairman of the Ohio Union of Patrolmen.

I am here today to indicate my support for H.R. 975, which is the legislation requiring the 7-day waiting period for one to purchase a handgun.

I in no way support legislation banning handguns or their purchase, but I am for keeping weapons out of the hands of the criminal element, the drug addicts and the mentally disturbed.

House Resolution 975 and the other companion bill in the U.S. Senate, Senate bill 466, could save lives of citizens and police officers and requiring this type of check of applicants may avert a tragedy in the future.

I have been a police officer for 16 years and can relate several instances where a record check and a waiting period of a person purchasing a handgun may have prevented deaths and injuries in our community. As recently as 1986, I was sad to come across a situation in which a math teacher at a high school in Akron, OH, committed suicide. I was sent to the teachers' lounge on several occasions and the teacher was on leave for psychological problems. The teacher was bright, young and a very warm person, well-liked by teachers and students alike.

I personally took this teacher to a hospital for psychiatric care on one occasion and this seemed to help. A few short weeks later, I was dispatched to the same house and found the teacher in the basement. He had shot himself with a pistol just purchased a few hours ago at a gun store in Akron.

As recent as June 11, 1987, just 5 days before the Senate hearings in Washington, at which I testified on Senate bill 466, I was dispatched to a call at a local psychiatric facility just two blocks from the police station, and I was sent there to talk to a woman who had just came into the facility for her out-patient care, stating she was going to commit suicide. One of the workers asked her why would she want to do that, and reassured her that she could not do that. The woman at that point produced a weapon and it was a .38 caliber revolver, and she also had 50 full metal jacketed bullets she had just purchased from a local store in Akron.

These are two recent incidents I can recall and there are other incidents very similar. I feel a 7-day waiting period, a cooling-off period, probably could have saved one life, and with regard to the woman in the psychiatric facility, she would not have been able to purchase the weapon.

There has been some concern about the fact that some people feel this will be burdensome upon the police departments since they would have to run record checks. The local police departments presently conduct record checks for numerous agencies, security

firms, military recruiters, and various private security businesses, and this duty is already performed and the burden on the police department staffs will be minimal.

This whole issue can be best summed up by the report of the 1981 Attorney General's Task Force on Violent Crime recommending a waiting period, stating that "since drug addicts, felons, mental defectives and the like are not the best risk for the honor system, a waiting period is sensible and necessary."

Our organization wholeheartedly supports H.R. 975 and Senate bill 466, and I thank all the members here for allowing me the time to testify.

Thank you.

Mr. HUGHES. Thank you, Mr. McGlumphy.

[Statement of Mr. McGlumphy follows:]

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Testimony of OUPA Vice President Nov 30, 1987
Darwin "Mac" McGlumphy
Before the House Judiciary Committee
Cleveland, Ohio

I am Darwin McGlumphy, and I am President of the Akron Police Patrolmen's Association, and Vice President and Legislative Chairman of the Ohio Union Patrolmen Association.

I am here today to indicate my support for HR 975, which is legislation requiring a 7 day waiting period before one can purchase a handgun. I in no way support legislation banning handguns or their purchase, but I am for keeping weapons out of the hands of the criminal element, the drug addicts and the mentally disturbed.

HR 975 and other companion bills in the U.S. Senate could save lives of citizen(s) and police officer(s), and requiring record checks of applicants may avert a tragedy in the future.

I have been a police officer for 16 years, and can relate to several instances where a record check and waiting period to purchase a handgun may have prevented deaths and injuries.

In 1986 I was sad to come across a situation in which a math teacher at East High School, in Akron, Ohio committed suicide. I was sent to the teachers house on several occasions, and the teacher was on leave for psychological problems.

The teacher was bright, young and a very warm person, and well liked by teachers and students alike. I personally took this teacher to a hospital for psychiatric care on one occasion, and this seemed to help. A few short weeks later, I was dispatched to the house, and found the teacher in the basement and he had shot himself with a pistol just purchased a few hours earlier at a gun store in Akron, Ohio.

As recent as June 11, 1987, I was dispatched to a call in Akron, approximately two blocks from our police station, and a woman came into the psychiatric facility and had in her possession a loaded weapon, and had 50 full-metal jacketed bullets in her possession. After she entered the facility she indicated to one of the workers that she was going to commit suicide. Luckily, the weapon was taken from this individual, but again this person was able to purchase a weapon with very little effort.

The 7 day waiting (cooling off) period possibly could have averted both of these incidents, and if one life is saved, the ultimate benefit is life itself and you can't put a price on this benefit.

Some have said that this bill is burdensome upon the local police departments and police chiefs, and running record checks for applicants who apply to purchase handguns is too much to ask of our police.

Local police departments presently conduct record checks for numerous agencies, security firms, military recruiters, and various private security businesses. This is a duty already performed, and the burden on police to perform this task would be minimal.

This whole issue can best be summed up by the report by The 1981 Attorney General's Task Force on Violent Crime recommending a waiting period, stating that, "since drug addicts, felons, mental defectives and the like are not the best risk for the 'honor system' a waiting period ..... is sensible and necessary."

HR 975 does not apply to rifles, shotguns etc and only applies to handguns and I am hopeful that this worthy legislation is enacted into law.

Respectfully,

Darwin McGlumphy

Darwin McGlumphy, President
Akron Police Patrolmen's Assoc.
1st Vice President & Legislative Chrmn
Ohio Union Patrolmen Association

THE PLAIN DEALER, WEDNESDAY, JULY 8, 1987

Gun control bill can work

National attention was recently given to the June 16 Senate hearing on SB 466, introduced by Sen. Howard Metzenbaum. It is a bill endorsed by nearly every police organization that would require a seven-day waiting period for the purchase of handguns.

I am vice president and legislative chairman of the Ohio Union Patrolmen Associations and president of the Akron Police Patrolmen's Association. These unions endorse the efforts of Metzenbaum and encouraged the introduction of SB 466 and its companion bill, HB 975, introduced by Rep. Edward Feighan.

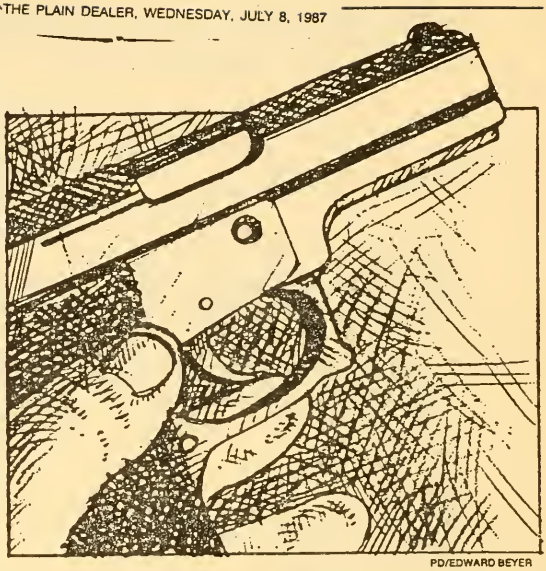
The bill would prohibit criminals, drug addicts, minors, illegal aliens and those adjudicated mentally ill from obtaining handguns. In states where waiting periods and background checks are not required, these people can instantly obtain handguns by simply signing a form stating that they do not fall into a prohibited category. It is a felony to lie on the form, and no check is required by present federal law.

The bills apply only to handguns, and the waiting period can be waived by local police should an individual have a legitimate, immediate need for a handgun. Also, these bills would not register or license handguns or owners. Unless the sale is denied, law enforcement is required to destroy all records.

A 1985 U.S. Department of Justice study titled "The Armed Criminal in America" found that at least 21% of criminals obtain their handguns through gun dealers. Local police departments conduct record checks for numerous agencies, security officers, military recruiters, etc., and the burden on police to include checks on those who wish to purchase handguns would be minimal.

The 1981 Attorney General's Task Force on Violent Crime recommends a waiting period, stating that, "since drug addicts, felons, mental defectives and the like are not the best risk for the 'honor system,' a waiting period ... is sensible and necessary."

DARWIN McGLUMPHY
Tallmadge



PD/EDWARD BEYER

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Regarding James P. Donovan's June 30 letter to the editor, in which he stated that gun laws don't work:

He cites a National Institute of Justice study by Professor James D. Wright of the University of Massachusetts, a study I have examined thoroughly.

Although recognizing that hardened criminals may not easily be deterred from acquiring a handgun, Wright makes it clear that regulation of retail handgun sales "may be effective in preventing some types of criminals from acquiring firearms (e.g., juveniles or non-felony offenders)." Surely Donovan cannot be opposed to this preventive aspect of a licensing system. Or does he choose to ignore it?

The experience of municipalities requiring licensing and registration consistently shows that gun permits are denied in a significant number of cases because the applicant is disqualified by existing federal, state, or local laws.

Those who favor licensing and registration have never claimed that such regulation would wipe out handgun crime. Will Donovan assert that local laws have had no effect whatever in the reduction of Cuyahoga County handgun homicides from a high of 363 in 1972 to 168 in 1986? Not only have total homicides in Cuyahoga County declined by 54%, as shown by the above numbers, but homicides by firearms have declined even more drastically —287 in 1972 and 114 in 1986, a reduction of 60%. These statistics are from the Cuyahoga County Coroner's office.

Wright's report is based on a study of more than 1,800 convicted felons, and, thus, has little to tell us about how petty criminals get their guns. Unrestricted sales, which many gun enthusiasts seem to advocate, make it easy for youths to acquire these deadly weapons, using false identifications in many instances. Is this what Donovan wants?

How many lives of innocent people—many of them children—will be lost before opponents of orderly handgun regulation stop their complaints about the inconvenience of the system?

JOSEPH B. CLOUGH
Cleveland Heights

The Plain Dealer welcomes letters to the editor, but reserves the right to edit them for brevity and clarity. Letters should be typed or otherwise clearly legible, brief and to the point. Include your full name and signature, complete address and telephone number, and mail your letter to: Letters, The Plain Dealer, 1801 Superior Ave., Cleveland, Ohio, 44114.

Mr. Stokes, in the last Congress, when we had S. 49, the so-called McClure-Volkmer bill, before the Congress, one of the arguments we heard often was that while we have representatives in the Fraternal Order of Police in to testify and while they were in Washington lobbying against the bill, that they represented really just a few elitist members of the organization and did not represent the sentiments of the rank and file.

What is your response to that?

Mr. STOKES. I think it was well characterized earlier about the NRA's position and how they—it is hog wash as to some of the statements that they have made. They were taking at that time the predecessor position, President Lloyd's position, as one of just his own personal philosophy or view.

That is why I took the trouble today to submit to you a resolution that was passed at our national conference in Mobile, Alabama, where over 2,100 members of the Fraternal Order of Police were there and voted as delegates, representing 1 for 50 throughout this country.

It is the position of the National Fraternal Order of Police, its membership. There is no doubt that we represent approximately 200,000 members throughout the country. There are going to be some that are spoon-fed from that $60 million pool of NRA money mis-facts and mis-construing statements about the position of the National Fraternal Order of Police.

It is our position that H.R. 975 is a good piece of legislation. We are well aware that the NRA has targeted Ohio for the next State to attempt to pass similar legislation which they have in Florida, which I am pleased to report miserably failed in Texas, as one of the States to pursue open handguns, and we are adamantly opposed to it.

I can only say to you that we, law enforcement, the legislature and ultimately the judicial system, must work hand in hand to prevent the slaughter of our citizens on our own streets. I think it has been pointed out here, the rippling effect of the purchase of a gun that is misused, the dramatic impact on the family, the friends.

I attend funerals frequently, all too frequently, I might add, of police officers that are killed with handguns, that leave a wife and children, decimate the families. It is just heartbreaking to attend those funerals and to converse with the widows and the mothers and fathers of these law enforcement officers that are killed in the line of duty, all for, in many cases, no real reason.

The last one I went to in Youngstown, OH, left a 3-year-old daughter and a wife. The gentleman pulled out a .22 caliber handgun and shot the officer at 4 o'clock in the morning because he stopped him on his way home from work, so he stated, where there were burglaries in the area. If he was innocent, why did he pull a gun and shoot a police officer. A uniformed police officer.

Is it the availability of the weapon? How did a 19-year-old get a weapon? Was he mentally having problems? I think those are very appropriate questions for you, the Congress of the United States, to ask the State Senate of the State of Ohio and the law enforcement leaders of this country to pursue.

Mr. HUGHES. You have to stand for election, do you not?

Mr. STOKES. Yes, sir.

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Mr. HUGHES. Did you have a slate that opposed you because of your position on waiting period or other gun legislation?

Mr. STOKES. I do not think so. I do not think so.

Mr. HUGHES. So, there was no opposition during the election process?

Mr. STOKES. No. I had two opponents in the national election, but I do not believe that was the basis of their opposition.

Mr. HUGHES. Let me try to test the arguments of the NRA and other groups that basically said that your view does not represent the rank and file. I mean——

Mr. STOKES. I can speak for one individual that I spoke with that did run against me. He is the president of the Washington, DC, Lodge, Tommy Tagg, and Tommy's position was in concert with the national FOP position on this legislation. I can assure you as one being in Washington, he has seen the slayings in Washington, and it gets to the point in Washington where, if you go to a beauty parlor, they lock the door after you get in. They only admit you one at a time in certain areas.

That is fear and intimidation of our citizens. We cannot stand for that.

Mr. HUGHES. But it is fair to assume that if the rank and file felt differently about issues such as this, they would be raising those issues in the context of elections, I would assume?

Mr. STOKES. In elections, at board meetings, through communications, and I can say to you that once we receive communications, which I did, from one of my officers in the Pittsburgh area, and I merely mailed him back copies of the NRA's full page ads and told him if he concurs with their statistics and their data, I would be pleased to hear from him, and he told me, as he wrote back, that he has contacted the NRA, made his position quite clear to them, and he supported our position. He was a sergeant in the Pittsburgh Police Department.

I think those types of statistics and the things that we see in the newspapers, where they say now, today, a child a day dies at the hands of a handgun, we, the intelligent, sensible people of this community and those of us that are charged with passing legislation, those that enforce that legislation, must come forward and take a stand.

Mr. HUGHES. Mr. McGlumphy or Mr. Lawer, either one of you, is 7 days enough to turn these criminals on the street around?

Mr. LAWER. I believe that 7 days will work, but as was stated earlier in the testimony, I think maybe two more days added to that would be very sufficient to conduct a background investigation.

Mr. HUGHES. Mr. McGlumphy.

Mr. MCGLUMPHY. Yes. As a street officer, I think the 7 days is a minimal amount of time. I think in most cases it is probably adequate because most police departments in the State of Ohio do have easy access to a computer that leads into the Washington NCIC checks.

In our local police department, I know I am a street officer, and I do run probably two or three checks a day in some cases on people who have been stopped for various things, and we do get an immediate response back. We do have three pretty active record checks.

So, I think 7 days is minimal, but I think in most cases, it would probably deter most of this in Ohio.

Mr. HUGHES. How large a community is Tallmadge, OH?

Mr. MCGLUMPHY. Tallmadge is a suburb of Akron. Coming out from Akron, we have 60 square miles, we have 400 police officers and it is pretty—about 240,000 population in the city and 500,000 in the county-wide area. So, it is a fairly large metropolitan area.

My own police department in Tallmadge, OH, does not itself have the tie-in to the NCIC lead, but they do go through our local police department in Akron and even the University of Akron itself in the City of Akron has its own terminal lead into the NCIC and do make very good adequate checks and 7 days is a minimal time in most cases.

Mr. HUGHES. OK. Thank you.

The gentleman from Ohio.

Mr. FEIGHAN. Thank you very much, Mr. Chairman.

I particularly want to thank this panel because the presence of the leadership of the national law enforcement organizations at this hearing and in support of this legislation is enormously important, just as it was so enormously important in our efforts in dealing with the McClure-Volkmer legislation last session.

I would like, if I could, Mr. Stokes, first, to tell you that I think that your characterization of this as domestic arms control is not only timely but is also very accurate, that while we have the nation appropriately focused on an arms accord with the Soviet Union in just a few days, we should not be unmindful of the continuing carnage that takes place on America's streets and that domestic arms control should not be removed as a priority concern of all of ours.

But is this not also for police officers, in addition to being domestic arms control, an important job safety issue? Would you tell us, based on your knowledge offhand, the best it might be, of the number of police officers killed in the line of duty across America each year and if you are familiar with that data, how many of those or generally what percentage are killed with handguns?

Mr. STOKES. I believe last year, some 159 off the top of my head. I would have to look at the records, but as I stated, 70 percent of those police officers killed in the United States are killed with handguns, and I think a comparison might be made.

You know, communities worry about drawing convention business to their cities and I think an interesting statistic I was made aware of recently was in Toronto, Canada, where the I.A.C.P. held their conference. It is a city equal the size in population of Los Angeles, and you had 18 homicides in Toronto and 1,200 and something in Los Angeles.

I mean, where would you feel safer if you were going on a convention to spend funds? So, I think it is important to cities and counties and States to stand up and support this type of legislation, from the chiefs of police right on down to the elected officials within our States and our cities, and I think it is important.

Mr. FEIGHAN. I would like to ask any of the other panel members if they might respond to a little bit more detail on either the issue of whether 7 days is adequate or if it should be 10 days or perhaps at the very most 15 days, but also your observations on the adequa-

cy of most jurisdictions in meeting the requirements of either a background check on a prior criminal record or perhaps what might be the more difficult check, that is a check for mental incompetency.

Could you speak to your experience about the resources that most local communities would have in order to complete both of those checks within either a 7-day or 10-day period?

Mr. STOKES. Congressman Feighan, if I may, from the review I have seen in the United States, the waiting period ran from 48 hours to 15 days. I think once this legislation is passed, whether you settle on 7 or 10 days, I agree with the constituents that, you know, it is probably 10 days or 14 days that would be better, but I think it depends on the cooperation also not only of our national law enforcement records, the expunging of those records which have been prevalent over the last few years, which is a travesty, and also the cooperation of the mental health system of our society and the doctors within to make that information available when these people are being released.

I know here in Ohio, we have seen a tremendous turn-around in mental institutions of release of individuals into our communities to be stabilized as long as they either seek treatment or take their medicine. I think once that subsides and those individuals become despondent or dangerous to others, it is imperative that we in law enforcement have some way of checking those individuals to make this legislation be even more successful.

Mr. FEIGHAN. Mr. Lawer or Mr. McGlumphy, do you see any problems that we may not have addressed yet with respect to checking an applicant's background in terms of mental competency?

Mr. MCGLUMPHY. The only problem that I would see is the fact that in the State of Ohio there are numerous halfway houses in the State where people with mental disorders and problems are placed into group homes with supervision, and it is a little bit hard to get a handle on the amount of people that are in these types of homes.

But then, again, too, I think that most of these homes are registered in the local communities and probably one more aspect of law enforcement if, when these homes are opened up, that the actual membership in these homes are provided to the police department in advance, and if any applicants did make application for a gun purchase, the records could already be checked for these people in these homes. That is one area that has not been addressed.

Mr. FEIGHAN. Mr. Lawer.

Mr. LAWER. No comments.

Mr. FEIGHAN. Again, I would like to thank the panelists for your, as I said, presence here today, but, more importantly, for the consistent support that you have given our committee, that you have given other Members of Congress, as we have tried to deal with a wide range of criminal justice legislation. It has been enormously helpful.

Thank you.

Mr. HUGHES. I just have one or two more questions.

If we were to pass a waiting period bill today, where would you expect the major bottleneck in processing criminal history checks?

Would it be in trying to get information on individuals that have been convicted in other States? Would it be attempting to get that information turned around in Ohio?

Mr. STOKES. I think——

Mr. HUGHES. Where would the major bottlenecks be?

Mr. STOKES. I think that the availability of the crime record check system, our computerized system, LEADS, and the funding that we receive to set up the computer checks in the State of Ohio, would help turn that around radically for Ohio. For other States, it may be a little bit more difficult.

I have been in some States that are not connected to the law enforcement system of computerized information, and on the national level, they are not hooked in obviously to that. They have not coordinated their efforts throughout the State.

There are going to be some States that are going to require some funding to computerize or some education to computerize their systems in adjacent States, and I do not think Ohio per se is in that category. I think the availability is there.

As Officer McGlumphy said, Tallmadge uses Akron and Columbus, OH, where I am from, the surrounding communities, most of them all have their own hook-up with our LEADS system.

So, I do not think it is going to be a great problem, but I think that we will have to face the fact that you only get out of the computer what you put in. Junk in, junk out. But I think that if we get the legislation to make those records or those convictions be computerized and we get some financial assistance from the State and Federal Governments in this area, you will see it smooth out.

There is always going to be some rough road when you first pass legislation of this magnitude, but I think it is well worth your efforts and your time and your thoughts.

Mr. HUGHES. Do you not see us moving more and more in the direction of regional centers anyway?

Mr. STOKES. Yes, sir.

Mr. HUGHES. I was out to Printrack in California about a month ago, talking to a law enforcement group about a fingerprint information system that is being developed in many parts of the country, which is going to revolutionize the exchange of fingerprint histories, and I see that occurring not just with fingerprints but with other criminal histories, records of conviction and arrests, for instance, to deal with the interstate problem that exists in many parts of the country.

I understand, for instance, that many handguns sold in Ohio end up in Michigan and the surrounding States.

Mr. STOKES. That is true. And I can see where the fingerprinting of an individual is important to verify the individual because it is so easy to obtain false documentation. The criminal element can pick up false identifications to do that with, and with the new fingerprinting system that is being implemented in this country, I think it is going to make it more and more difficult, and I think it points out that this legislation is more imperative.

Mr. HUGHES. Well, without getting into the need to fingerprint, it is very difficult to try to get criminal history shared, and that is what we are trying to do with this legislation, just try to, you know, share information on individuals without fingerprints.

Let me ask you an additional question. If we were to require gun shops to supply to the local law enforcement communities information about a gun sale, no waiting period, just a gun sale, a gun transaction goes down, you furnish the information that so and so just bought a weapon, would that be helpful?

Mr. STOKES. Yes, sir. I think also because in the courts and the judicial system today and every homicide case that I have followed, the first thing that they want you to do is trace the weapon back to the dealer, be able to put that weapon in someone's hands, and it is—obviously, if you can directly say that that purchase was made by this person at that gun store, this specific time, that puts that weapon in that person's hand and then he comes up with a story saying as they do periodically when you are on the street about how a car gets stolen, you can then say the weapon was purchased by you at this time and at this place.

If the weapon was stolen, it behooves that individual to report the weapon stolen and have a police report on file which would verify the validity of their statement.

Mr. HUGHES. It would also put you on notice if there were known individuals in the community that had mental histories or had records of conviction. There are a lot of people that I am sure would come to mind. The name would just trigger right away a check, I would assume.

Mr. STOKES. At least put you on notice and with the new computerized system, we can also put out a warning, a flag as we call it, in our radio room that when you are approaching an individual on a traffic stop or an individual when you are dispatched to his home which would tell you about past violence or encounters with this individual or that that person is a known felon and is in possession of a firearm. Today, that is unheard of.

Mr. HUGHES. Well, it seems to me that at the very least we should be making that information available. If we are going to the trouble of requiring an individual to fill out a form which asks him about his criminal history and his mental history, at the very least we should be sharing that information with the police.

It is a sad commentary that in the last Congress, we had to cut that portion loose from the rest of our law enforcement package. We brought out a number of different provisions in the Judiciary bill that carried in our committee unanimously with police in Florida, and we did have some provisions dealing with a waiting period. We even cut the provisions that required sharing that information from it because of the controversy that that also generated. That is a sad commentary.

Mr. STOKES. I think your legislation in H.R. 975, though, covers that and says that, you know, if your past history shows that you are a law-abiding citizen and you have no intentions of using that weapon based on your past in any criminal manner, that record, that information is destroyed after 60 days.

Mr. HUGHES. Oh, I know. I mean, that is, if you are dealing with people that are being logical and reasonable and rational, but the gun lobby is opposed to even having that information that is on file, required by BATF, filed with the gun dealers. They even oppose that being shared with the law enforcement people.

Mr. STOKES. I understand that.

Mr. HUGHES. No waiting period. They even oppose that sharing.

Mr. STOKES. And at the time, I think, in the McClure-Volkmer, they said that there was no police officer killed in the United States with a machinegun and we have had three. So, I think there are facts that have to be clarified. I get concerned about collapsible machineguns and plastic guns and other things that put our police officers further in jeopardy as they go about the business of protecting the community.

You know, I am just pleased to see the Congress is willing to hold hearings and to discuss this type of legislation. I believe that the sanity and the purchase of firearms and some sane control is, as the previous speaker talked about, not gun control but crime control and provides some safety and security for our citizens.

Mr. HUGHES. Well, it is crime control and there is no question about it that if the McClure-Volkmer had carried, we would have done irreparable damage. We would have put police officers more directly on the line because of the sale provisions and some of the transportation provisions, interstate sales, interstate transportation, and what really I did not understand was why the gun lobby felt it necessary to decimate recordkeeping by gun dealers.

They would have created large gaps in our recordkeeping provisions of the law. Gun dealers, as you know, keep records of gun sales and whenever we want to trace a weapon that you find in some car, we have to go through a process of calling the importer, the manufacturer and the wholesaler because it is not all computerized. They oppose that.

So, we have to go through that kind of a trace, like the Hinckley handgun was traced in about 20 minutes, less than that, 17 minutes or thereabouts, but the BATF had to go through the process of trying to follow that chain to trace that handgun.

If, in fact, the gun lobby had had their way in the last Congress, we would have seen major gaps in our handgun tracing capability. It would have made it impossible to trace thousands and thousands of handguns used in crimes.

Mr. STOKES. And I think they are looking at it from one perspective, the sale of a handgun. I have not heard anyone speak here today that is opposed to gun collection or the purchase of weapons, the weekend hunter or those who go out and hunt. Only to justify another spectrum. But I think the important issue here today is H.R. 975, and I think it brings sanity to guns and the purchase of guns and does not say you cannot, it says that your past puts you on record as to whether you should or should not own a handgun, and the potential danger to not only yourself but your family, to go home and assassinate your family.

Mr. HUGHES. Well, you and I understand that, but, unfortunately, as my colleague, Mr. Feighan, and others have suggested, the handgun lobby is very inventive in ways that they can distort issues, and——

Mr. STOKES. I think that is evident.

Mr. HUGHES[continuing]. That comes to my final point. I am just delighted that you are here today because you can be of help to us, and I am going to make the same proposition to you that I made to your predecessor, Mr. Lloyd, and others at the national and State levels.

It is important that you testify and you have. I think that is an important first step. The second thing, it is important for your members to get to know their legislators. There ought to be an adopt-a-congressman year, adopt-a-legislator year. They ought to go in and talk to their Members of Congress and their legislators about their concerns. That is an important part of what you should be doing.

Second of all, when legislators, like Ed Feighan, and I could name you dozens of others, have the guts to come and stand up to this special interest group in sometimes very tough districts because they want to do what is right, it is so important to follow through, even if it is just a public ceremony, you know, after they have stood up for you, and let them know you appreciate it. They are a friend of the police in their communities. That is important.

In the last campaign, I cannot begin to tell you the number of times I took telephone calls when I was out campaigning from other Members of Congress who would track me down somewhere to ask me what all the arguments were and to review with them once again what the significance was of handgun tracing capabilities, and why it was so important to hold the line on the interstate transportation of weapons or the interstate sale, and I had a number of members also say to me, I wish the police back in my area would make a public statement indicating that I did support them. The NRA is beating up on me, and, once the campaign was over last time and the law enforcement community left Washington, for many, that was the end of it.

But that was not the end for the legislators, and they often face well-financed opponents who had to go to meetings where they were beaten up on because of their support for the law enforcement community. It is an important initiative for the police and other organizations to begin knowing a little bit more about legislators and who are friends and who are not and reward the friends and remember the enemies.

Mr. STOKES. Congressman, I could not agree with you more. I think what the tradition of the past in law enforcement has been is that law enforcement did not get involved in politics. Politics did not affect our working conditions we were told historically by other politicians. We have learned that that is not true.

I think that is one and, two, I think the biggest thing that we find is that 2.5 million people in the NRA contribute $60 to $70 million over a period of time for them to have a pool of funds. Well, I think law enforcement should be receiving and organizations should be receiving those funds.

The FOP should have those funds available to us to run, to counteract these false ads that were ran by the NRA. One of these ads will cost anywhere from $5,000 to $10,000 to $12,000 depending on the newspaper. The ad in here about rape, the ad in here about police officers response time is a misnomer.

I think the thing that should be ran by the FOP and by the law enforcement is a child a day dies in this country at the hands of a handgun. These are important facts, and I agree with you. I think that the law enforcement went a couple of weeks ago and talked to Senator Strom Thurmond, who is our philosophy on many issues,

very conservative, I guess you might say, he supports our position on handgun, on the waiting period, and it is very commendable.

We have other issues in law enforcement that we have to evaluate and judge our congressmen on, you know. While we may agree on handgun control legislation to the point that it is crime prevention as far as we see it, it is crime prevention, we are sworn to enforce the Constitution, the right to keep and bear arms is in the Constitution, and we support that, but I do not see anywhere in there where it says, you know, you have a right to own a Bazooka or a Howitzer if you want to put one in your front yard.

We are for reasonable and sane control in the purchase of handguns, and I will support the congressmen that support us on that issue, but at the same time, we have other crime issues that come before the Congress from time to time that we see just as essential as this type of legislation.

Mr. HUGHES. Oh, I understand that. The only point I am making is that I would much rather have an aroused law enforcement community supporting me, if that is the right side of the issue.

Mr. STOKES. I agree with that.

Mr. HUGHES. In my last election, I was the number one target in the country because of my chairmanship of this subcommittee and because of the fact that I handled the gun legislation on the Floor.

I was public enemy number one for the NRA, but I had, first of all, the law enforcement community that rallied around me and they were writing the letters to the editor in response to all the nuts that were writing in on the other side of the issue, and the law enforcement community was in my district last time making a presentation to me, a friend of the policeman, and I will take that any day over some of the ads.

The only point I am making is that that did not happen in many other communities where some fairly courageous colleagues of mine got up and did cast some tough votes and they did face a well-heeled special interest group. They spent a lot of money against those colleagues of mine, and the only point I am trying to make is that I think you can help your cause and help your friends by following through while taking those extra steps, making sure that their constituency knows that they supported you on an important issue that means life or death for them and to you as police officers. That is the only point.

Do you have any further questions?

Mr. FEIGHAN. No further questions.

Mr. HUGHES. Well, thank you very much. You have been very helpful today. We really appreciate your testimony.

ALL. Thank you.

Mr. HUGHES. The third panel today consists of the family members of victims of handgun homicides.

First, Ms. Janice Biederman of Pepper Pike, OH, the daughter of Erwin Biederman, a University Heights jeweler who was murdered on October 17, 1974.

Second, Mr. John K. White of Cleveland, OH, the brother of Robert White, a retired lieutenant in the Cleveland Police Department, who was murdered April 27, 1979.

Third is Mr. Edward Jerse, an attorney and member of the Cleveland law firm of Arthur and Hadden. He is the brother of Dr.

Mary N. Jerse O'Connor, a resident in psychiatry at the University of Wisconsin, who was murdered on January 31, 1983.

Ms. Biederman, Mr. White, Mr. Jerse, on behalf of the Subcommittee on Crime, we welcome you here today. We have your statements. They have been submitted and they will be made a part of the record in full, and you may proceed as you see fit.

I have just been informed that Mr. Jerse will not be able to join us today.

Why don't we begin with Ms. Biederman.

Ms. BIEDERMAN. Yes.

Mr. HUGHES. Welcome.

TESTIMONY OF JANICE BIEDERMAN, PEPPER PIKE, OH

Ms. BIEDERMAN. Thank you. Thank you, Mr. Hughes, for this opportunity to come before you and, Mr. Feighan, thank you very much for the legislation that you have brought on behalf——

I am a little nervous and I do not have a lot of statistics with me.

Mr. HUGHES. Well, that is OK. You just take your time, and we are just delighted to have you with us this morning.

Ms. BIEDERMAN. All I can tell you is what it is like to be the family of a victim of a handgun murder and the pain and the anguish that we have gone through for the last 13 years since my father was killed.

It is a very gut-wrenching experience. It rips your life apart by the seams. It is something that I do not want to see anybody else go through and that is the reason that I came forward here today, in the hope that some legislation will be passed to prevent this in the future.

My father was a gentle, kind, and very loving man, and he survived persecution and Hitler to come to this country where he thought he could live freely and earn a living as he saw fit.

To lose somebody is very difficult, to lose somebody you love, and to lose them through a murder committed by someone who was just let out of prison, who had murdered a man 2 years earlier, is even more difficult to live with. Of the criminals that shot him, two of them were found to be psychotic by a court. They would have gotten the electric chair, but they were found to be psychotic. Yet these people were able to walk into the local discount store and walk out with a handgun.

Why are these people running around on our streets with handguns? My family is here with me today. My mother, who lost a man that she loved very much, who she had spent her life with, and my children who never got to share their lives with their grandfather. I can only hope that we pass some measures to prevent this in the future.

Why do we live in a society where we are required to have a license to drive a car or to cut somebody's hair but not to buy a handgun? It is truly beyond me. I think there are truly a lot of people in this country who are law-abiding, and who feel the way I do.

As far as the NRA and their rights are concerned, what about my rights? All I am asking is that my life be protected as a citizen of this country, that ex-criminals and psychotics not be allowed to

walk into the stores and just walk out with a handgun without any waiting period at all.

I do not know what else I can tell you, except to beg you and to plead with you to pass some legislation to protect us and to help other families avoid the kind of tragedy that we have had to live through for the past 13 years.

Thank you.

Mr. HUGHES. Thank you very much, Ms. Biederman.

[Statement of Ms. Biederman follows:]

TESTIMONY OF JANICE BIEDERMAN

November 23, 1987

My father, Erwin Biederman, was an intelligent, loving and honest man. He survived the Holocaust and came to this country of freedom, to live his life in peace and rear his children in a place where we were not persecuted and that all opportunities were open to us. He truly believed that America was the "land of opportunity", and taught us that if we worked hard, were law-abiding and honest, we could accomplish whatever we chose.

Thirteen years ago my father was murdered while at work in his jewelry store. Our lives were ripped apart at the seams and we went through a living hell, trying to deal not only with the death of a man we loved very much, but the sensationalism of the front-page headlines and ensuing police investigation. It is hard to explain to someone who has not lived through it just how horrible it is to lose someone you love suddenly, through a senseless killing, especially when that crime has been committed by a convicted killer who was able to purchase a handgun less than one week after he was released on "shock probation".

Four men were tried and convicted of my father's murder. One of the defendents, Carlton Pope, had a long juvenile record and had been convicted of housebreaking and larceny. The court found Pope to be psychotic, which, by law, saved him from the electric chair. He was, however, able to walk into the local discount store and walk out with a handgun. Another of the defendents was a criminal named George Hawkins. "Hawkins, 23, was spared from the electric chair because Common Pleas Judge Lloyd Brown found him to be psychotic also.

Judge Brown said the finding was based on psychiatric and probation department reports as well as Hawkins' behavior in court and in County Jail, where he had been accused of breaking windows. By law, the death penalty may not be imposed when the offense was mainly the product of the defendent's psychosis." This man was also able to purchase a handgun without any waiting period.

The triggerman was named Joel Betts. He was a paroled killer who two years earlier had been indicted for the first-degree murder of another victim, Samuel Deal. He was released from parole on October 10, 1974, and shot my father on October 17, one week later. If there had been a waiting period for the purchase of the handgun he used to commit the crime, maybe that senseless killing could have been avoided. All three of these former felons, two of them found to be psychotic by the court, were able to walk into the local discount store and walk out with a handgun. Is this the kind of person we want running loose in our society with a gun? Do you want them out on the streets with your loved ones?

I know that nothing will bring my father back. Our family will live with that tragedy and with that loss as long as we live, but if any good at all can come out of this situation, I would hope it would be to spare someone else from going through such agony. I truly believe that if we had at the very least some sort of gun control, at least a minimum waiting period between the time a person goes in to buy a gun and the time they receive it, we could at least check to see if they had a criminal record or were psychotic. I believe our citizens need some protection from convicted murderers and felons when it is all too easy for them to purchase handguns. I don't want them to have guns, and I can't understand why we presently have much stricter laws on who we allow to drive a car than who we allow to own a gun.

Janice Biederman
1949 Chestnut Ln. Cleve, Ohio 44[illegible]

Paroled killer is convicted in murder of U. Hts. jeweler

The Plain Dealer/Mitchael J. Zaremba

Joel Betts is taken to County Jail after being sentenced to 22 years to life in prison in the killing of a jeweler.

By Leslie Kay

For the second time in his 24 years, Joel Betts was found guilty yesterday of killing a man.

A common pleas jury convicted him of killing University Heights jewelry store owner Erwin Biederman Oct. 17—a week after Betts was released from parole on a manslaughter conviction.

Betts, formerly of 10202 Wilbur Ave. SE, and three others had been indicted for aggravated murder and aggravated robbery of Biederman, 62. Although there had been testimony that Betts was the triggerman, two of the others were convicted of both charges while Betts was convicted of aggravated robbery and nonaggravated murder.

One of his lawyers claimed a victory.

Judge Lloyd O. Brown told Betts he was "extremely fortunate" and said he thought there was sufficient evidence to convict him of aggravated murder, which

Continued on Page 6-A

Grand Central Station has a shop available for you! $149 per mo. Antiques, toys, glass blower. 942-8816. —Advt.

Paroled killer convicted in U. Hts. jeweler's death

★ From First Page

carries a penalty of death or life imprisonment.

Judge Brown sentenced him to 22 years to life in prison and told deputies to "ship him tomorrow morning."

A parole official said the earliest he could be paroled is after seven years.

Two years ago Betts was under indictment for first-degree murder of Samuel Deal and was convicted by a jury of the less serious crime of first-degree manslaughter, punishable by one to 20 years in prison. He was paroled Sept. 20, 1973, and released from parole Oct. 10, according to a spokesman for the Ohio Department of Rehabilitation and Correction.

[illegible] had been in County Jail about [illegible] before his trial and that [illegible] have been credited when he [illegible] for parole consideration. Record show he was married while in [illegible]

[illegible] Biederman, owner of Lee Heights [illegible] 2243 Warrensville Center Rd., [illegible] in the chest and hit on the [illegible] according to John V. Jackson II, [illegible] Cuyahoga County prosecutor. [illegible] said the four men charged [illegible] went to rob him and shot him [illegible] resisted.

[illegible] others were George A. Hawkins, [illegible] sentenced to life in prison; Carl R. [illegible] also 23, sentenced to 14 to 50 years, and Carlton L. Pope, 22, who is scheduled to be sentenced next Tuesday.

Man gets life for slaying store owner

Carlton L. Pope, who once worked as a recreation instructor for the city of Cleveland, was sentenced to life in prison yesterday, becoming the fourth and final defendant to be sentenced in the slaying of University Heights jewelry store owner Erwin Biederman.

Common Pleas Judge Lloyd O. Brown said he found Pope to be psychotic, which, by law, saved him from the electric chair.

Judge Brown said Pope, 22, had a long juvenile record. He was convicted of housebreaking and larceny two years ago, but the decision was reversed by the Ohio Court of Appeals (8th District) last year, records show.

John V. Jackson II, assistant Cuyahoga County prosecutor, said Pope and Joel Betts, another defendant, had met in prison. Betts, 24, was once convicted of manslaughter.

Pope, Betts and two others were indicted for aggravated murder and aggravated robbery in the Oct. 17, 1974, shooting of Biederman, 62, owner of Lee Heights Jewelry, 2243 Warrensville Center Rd.

While there had been testimony that Betts was the triggerman, the jury that heard his case found him guilty of simple murder and aggravated robbery. He was sentenced to 22 years to life in prison March 10.

George A. Hawkins, 23, was convicted of aggravated murder and aggravated robbery Jan. 22 and was sentenced to life in prison Feb. 18. Carl R. Harris, 23, pleaded guilty and Jan. 29 to voluntary manslaughter and aggravated robbery and was sentenced to 14 to 50 years.

Hawkins found guilty, may get electric chair

By Leslie Kay

George A. Hawkins, 23, could be the first person sentenced to the electric chair from Cuyahoga County since the death penalty was reinstated in Ohio a year ago.

A common pleas jury yesterday found Hawkins guilty of murder and robbery Oct. 17 of Erwin Biederman, 62, a University Heights jeweler.

Hawkins, whose address was listed as 2347 E. 89th St., was the first of four defendants in the case to stand trial.

The guilty verdicts were returned against him even though there was no evidence he had fired the gun with which Biederman was slain.

Under Ohio law, Hawkins' case now enters a second phase. It will be up to Judge Lloyd O. Brown, who presided over the trial, to determine whether there were any mitigating circumstances such as coercion or mental deficiency. If there were, Hawkins is to be sentenced to life imprisonment. If there were not, he will get the death penalty.

Judge Brown referred Hawkins to the court's probation and psychiatric departments for presentencing reports. He scheduled a sentencing hearing for Feb. 18.

One juror said it helped to know that it would be up to the judge to decide whether Hawkins gets the death penalty.

"I knew there was a possibility," he added, "and I still thought it was my duty to vote the way I thought I should vote."

Hawkins was prosecuted by John V. Jackson II, 27, who has been assistant Cuyahoga County prosecutor a little more than two years. Jackson said yesterday he will push for the death penalty.

Jackson said he believed Hawkins and the three other defendants had gone to rob Biederman, owner of Lee Heights Jewelry, 2243 Warrensville Center Rd., but Biederman had resisted, so they shot him and fled. Testimony showed that Biederman was shot in the chest and hit over the head with a blunt instrument.

Jackson acknowledged there was no identification of a triggerman or proof from fingerprint tests or tests of Hawkins' hand that he had handled a gun.

But witnesses, he said, had seen him near the store, one testifying that he ran through a nearby arcade immediately after the shooting.

Lawyer Jerry Milano said the verdict will be appealed. Milano and Edward Becker defended Hawkins.

THE PLAIN DEALER, WEDNESDAY, FEBRUARY 19, 1975 SECTION B

Ruled psychotic, spared from chair

Jeweler's murderer gets life

George A. Hawkins, convicted of murdering University Heights jeweler Erwin Biederman, was sentenced yesterday to life in prison shortly before an alleged accomplice went on trial.

Hawkins, 23, was spared from the electric chair because Common Pleas Judge Lloyd D. Brown found him to be psychotic. Judge Brown said the finding was based on psychiatric and probation department reports as well as Hawkins' behavior in court and in County Jail, where he had been accused of breaking windows.

By law, the death penalty may not be imposed when the offense was mainly the product of the defendant's psychosis.

Hawkins was found guilty Jan. 22 of aggravated murder in the shooting death Oct. 17 of Biederman, 62, owner of Lee Heights Jewelry, 2243 Warrensville Center Rd., and of aggravated robbery of Biederman.

Three others also were charged. One of them, Carl R. Harris, also 23, pleaded guilty Jan. 29 to voluntary manslaughter and aggravated robbery and was sentenced to 14 to 50 years in the Ohio Reformatory by Judge Brown.

Jury selection started yesterday in the case of a third codefendant, Carl T. Pope, 22, of 10515 Woodland Ave. SE. It is expected to continue today.

Mr. HUGHES. Mr. White, welcome.

TESTIMONY OF JOHN K. WHITE, CLEVELAND, OH

Mr. WHITE. Congressman Hughes and Congressman Feighan, ladies and gentlemen, thanks for asking me to appear before this subcommittee.

After the previous poignant and eloquent statement, this may sound a little detached, but it is still sincere.

I favor any legislation. Every handgun in the nation should be registered and we should know the name of every person who owns one.

In addition, efforts should be made to keep handguns out of the hands of those who represent a danger to the community or who are otherwise incapable of handling them safely. I have given this matter full consideration and deep thought, and I studied the various pros and cons about it.

I have owned a handgun in the past and I disposed of it lawfully. I turned it over to my local police department after I concluded that it could represent a danger to my minor children and it did not provide the safety and security I thought it would.

I handled firearms. I taught others to. I spent 6 years in the service. I was a drill instructor, and I worked on the rifle range at Parris Island. I taught my children to handle and care for a weapon, shot guns and rifles. I even taught my daughter how to hunt and how to shoot.

I am not anti-guns, and I object to those, the NRA in particular, and other groups in this nation, who call me a Communist, a Leftist or an anti-American because I hold those views. But let me tell you about my brother.

He was shot and killed during an attempted hold-up on Friday, the 27th of April, 1979, at approximately 10:40 in the morning. Robert White was a retired Cleveland police lieutenant. He was employed as a parole officer by the State of Ohio. He was 55 years old, was married with two daughters, had been on the police force for 26 years at the time he retired. His tenure as a parole investigator was very brief, indeed.

Lt. White was a street cop. He had the reputation on the Cleveland Police Force as being well able to handle himself in an emergency situation. He had been involved in shoot-outs. At the time of his murder, he was investigating a suspected parole violator whose last known address was in one of the highest crime areas in this community. It is a low-income housing project in the black ghetto. It is known as Brick City.

Because of this environment, he was armed when he went there. He was authorized to carry a weapon. He was licensed as not only an officer but also as a civilian, and during his 26 years, he was very proficient in handling guns.

According to the scenario, Lt. White was one of the few middle-aged white males dressed in business clothes in Brick City. He was noticeable and it was assumed that he was an insurance agent or a collector and had a sizable amount of money on him.

According to the justices and professionals, he represented a crime of opportunity, a crime of opportunity, gentlemen, to three

professional hold-up men. When Lt. White was accosted with a handgun held under his right ear, he instinctively attempted to draw his weapon and resist. In a split second, he was dead. If he had not attempted to protect himself with his gun, he might be alive today. He would have lost a wallet with $155 in it plus a complement of credit cards.

I describe this to dramatically illustrate the thinking of those who promote carrying handguns for protection. If an experienced street cop, who is used to dealing with hardened criminals, and one who had been previously involved in shoot-outs, cannot outrun a bullet fired at close range while he draws and returns the fire, no one with less experience can.

I think this episode also counters the claim that the threat of swift and peer punishment, long imprisonment, perhaps execution, is a better deterrent to crime than gun control. The threat of punishment has little, if any, bearing on crimes committed by professional criminals.

Armed robbery, street crime is a crime of opportunity, as I noted previously. Both Ramsey Clark in "Crime in America" and Charles Silberberg in "Criminal Violence, Criminal Justice" note that no criminal thinks he will be caught. Most urban law enforcement professionals concur in this.

Thus, in the mind of the criminal, simply because he thinks he can get away with the crime, the threat of imprisonment is academic, to put it charitably.

Furthermore, Congressmen, I object strenuously to those who dismiss any sensible discussion of handgun control by implying with their "imprisonment is the answer" comments, that sending a killer to the chair makes a murder any easier to bear. It does not. It does not bring back the victim.

Excuse me.

Mr. HUGHES. Take your time.

[Pause.]

Mr. WHITE. Frankly, just by inferring that execution or imprisonment, which always take place after the fact, not before, offers any solace to me or to Ms. Biederman is condescending, indeed. Again, I am putting that statement charitably.

The triggerman who shot Lt. White is serving two consecutive life sentences for other murders. It does not mean a thing to me and my family, my sister-in-law or my nieces or to the family of the triggerman's three other victims.

Another frequently-voiced objection to gun control legislation is the cry, when honest people give up their guns only criminals will have them. That is a red herring.

In 1980, the last year for which I have a record in ten large U.S. cities, Cleveland not among them, over 80,000 unregistered handguns were confiscated from people who were arrested. These guns were destroyed. Furthermore, there was no record that these people had ever purchased those guns.

Based on that statistic alone, an educated guess tells me that at any given moment of any day, a police officer in a large city is confiscating an unregistered handgun. To carry it even further, simple arithmetic tells us that if we destroy 80,000 handguns a year and the estimated number of guns in circulation that is reportedly

steadily increasing, someone sure has a tremendous amount of money at stake. Any action which can curtail the trade of unregistered weapons to unknown purchasers can have grievous effect on their pocketbook.

If I may be allowed a side word, gentlemen, the current issue of Insight Magazine, dated November 30th, an article says there were one and a half million handguns sold in 1985. This represented $600 million in sales. The figures will be higher in 1987. There are seven major manufacturers of handguns in the United States, each one of them very active in the groups who oppose handgun control legislation.

But even more relevant is the fact that if we continue to confiscate guns from the criminal element and if we make it more difficult and more expensive, repeat more expensive, to replace those guns, many of them will eventually be disarmed. It will take years, but it has taken years to get where we are now.

Note that I use the adjective "expensive," and I repeated it. Expensive to any common street hoodlum is anything over $50. That is the amount you can buy a hot gun in Cleveland. These guys seldom have more than that amount in their pockets. If they do, it is spent on booze, crack, pot, women, and being a bad dude.

So, if guns are registered and their purchase is controlled and purchasers have to be investigated and have clean records, the common street criminal will no longer be able to get a $50 gun. A few hundred dollars, more than most of them will ever get their hands on, will be closer to what the black market will demand.

Another message sometimes heard is that handguns will be necessary to defend our nation when the Russians or the Nicaraguans invade our shores. Anyone who seriously thinks that any well-equipped military court can be opposed with a handgun has to be living in a fantasy world. I know, any other combat vet will say the same thing.

Finally, there is no unalienable constitutional right to own or carry a handgun. Courts have ruled that the Second Amendment refers to the maintenance of the militia and the militia is armed with long guns.

I also bring to your attention the statistic that many, a high percentage of gun victims, are not killed by anonymous criminals but by friends, relatives, neighbors, during the course of an argument, when tempers flare, when someone is drunk or under the influence of drugs. In these cases, the perpetrator is not armed to begin with but runs to where the gun is kept.

Strict gun legislation would not prevent all these occurrences, but many of these people have histories of instability, of violent tempers, of drunkenness, enforcement of legislation would have prevented them from having handguns.

As to the argument that gun legislation should be a State matter, consider every law on the books now is a patchwork crazy quilt pattern. We need Federal legislation. We need a central authority.

Finally, Congressmen, to counter the arguments of those who aver that any law-abiding responsible adult should be permitted to own a pistol, I cite the circumstances of my good friend, Nicholas. Nick is in his mid-forties, unmarried. He supports his widowed

mother. He has held a steady job with the same employer for over 15 years. Pays taxes, pays his bills, attends church, does not drink to excess or engage in boisterous behavior.

By these standards, he should be eligible to own a handgun. Unfortunately, Nick is a victim of Down's Syndrome. He has a mental and emotional development of a child of ten or twelve. He should not be allowed to own a handgun. Neither do I feel other certain law-abiding members of our community should have guns. Many physically handicapped, the blind.

Forgive me if it sounds insensitive or cruel, but not every honorable person is capable of being entrusted with a firearm. They are not entrusted with a driver's license.

In closing, Congressman Hughes and Congressman Feighan, I want to ask you to consider legislation which goes beyond that which you already have on your books. First, not only take steps to ensure that only qualified people are able to obtain guns, but keep accurate records of those who do.

Plus, match a serial number of the gun against the owner of the gun. Second, require the manufacturers and the distributors of foreign-made guns to provide ballistics data for each gun. This data can be filed in a central registry and matched with the serial number of the gun.

Third, require dealers to require licenses and to forward information on their inventory and to submit records on all transactions to a central agency. Take steps to provide a channel of information which will record transactions between private parties. These steps are not as complicated as they may sound. They are the same efforts we make to register and record the sales and transfers of automobiles.

Thank you for your attention, Congressmen, ladies and gentlemen.

Mr. HUGHES. Thank you, Mr. White.

[Statement of Mr. White follows:]

STATEMENT: JOHN K. WHITE
3423 Russell Avenue
Parma (Cleveland) Ohio 44134

MADE TO: House of Representatives
Sub-Committee on Crime

Public Hearing, Cleveland, Ohio, November 30, 1987

Chaired By: CONGRESSMAN WILLIAM J. HUGHES, D NJ
CONGRESSMAN EDWARD F. FEIGHAN, D OH

Congressman Hughes, Congressman Feighan, ladies and gentlemen, thank you for asking that I appear before this sub-committee and offer my views regarding the proposed legislation governing the sale and distribution of handguns.

I favor this legislation. My feeling is that every handgun in this nation should be registered. A central data bank should contain the name of every individual who owns a handgun.

In addition, efforts should be made to keep handguns out of the hands of those who represent a danger to the community or who are otherwise incapable of handling handguns safely.

I do not hold these views without giving the matter full consideration and reaching my conclusion after deep thought and studying the pros and cons.

I have owned a handgun in the past and disposed of it -- lawfully -- after I concluded that it could represent a danger to my minor children and did not provide the safety and security I was led to believe it would.

I handled firearms -- and taught others to -- during my six years in the armed forces. I taught my children to handle and care for weapons -- rifles and shotguns. Even my daughter was taught gun safety. I led a Boy Scout troop and taught scouts how to handle and care for rifles and shotguns.

So, I am not anti-gun.

I am, however, totally opposed to the current policy regarding handguns that we have in the U.S. I also totally oppose the vocal efforts of those who object to controls.

I take strenuous objections to those who oppose my viewpoints by calling me a communist, leftist, or anti-American.

Let me commence my statement by telling about my brother.

My brother was shot and killed during an attempted hold-up on Friday, the 27th of April, 1979, at approximately 10:40 A.M.

Robert White was a retired Cleveland Police Lieutenant employed as a parole officer by the State of Ohio. He was 55 years old and had been on the police force for 26 years at the time he retired. His tenure as a parole investigator was short.

Lieutenant White prided himself on being a "street cop". He had the reputation on the force as being well able to handle himself in emergency situations.

I give this brief background information in order to lay the foundation for my viewpoints regarding handgun control -- or rather, the lack of control.

At the time of my brother's murder he was investigating a suspected parole violator whose last known address was in one of the highest crime areas in this community. A low income housing project, in the black ghetto, an area known to law enforcement authorities and social workers as Brick City. Because of this environment he was armed with his service revolver. He was authorized to carry a weapon, and during his 26 years as a police officer had become proficient in handgun handling and care.

According to the scenario, as established by the investigating officers -- and the police prosecutors -- Lt. White was one of the few middle-aged white males, dressed in business clothes, who are seen in brick city. Because he was so noticeable, it was assumed by many in the area that he was an insurance agent or a collector and was therefore carrying a sizable amount of cash on him.

According to justice system professionals he, therefore, represented a crime of opportunity to three professional hold-up men.

When Lt. White was accosted, with a handgun being held under his right ear, he instinctively attempted to draw his weapon and resist. In a split second he was dead.

Indeed, if Lt. White had not attempted to protect himself with his gun, he might be alive today. He would have lost a wallet with $155 plus the complement of credit cards.

I describe this scenario, Congressmen, to dramatically illustrate the fallacious thinking of those who promote carrying handguns for protection.

IF an experienced street cop, used to dealing with hardened criminals -- and one who had been previously involved in a shootout -- cannot outrun a bullet fired at close range while he draws and returns the fire, no one with less experience can.

I think this episode also counters the claim that the threat of swift and sure punishment, long imprisonment, perhaps execution, is a better deterrent to crime than gun control. The threat of punishment has little, if any, bearing on crimes committed by professional criminals. Simply because armed robbery - street crime -- is a crime of opportunity.

Both Ramsey Clark in "Crime in America" and Charles Silberberg in "Criminal Violence, Criminal Justice" note that no criminal thinks he will be caught. Most urban law enforcement professionals concur.

Thus, in the mind of the criminal, simply because he thinks he can get away, the threat of imprisonment is academic, to put it charitably.

Furthermore, Congressmen, I object -- strenuously -- to those who dismiss any sensible discussion of handgun control by implying with their imprisonment comments that sending a killer to the chair makes a murder any easier to bear. It doesn't. It doesn't bring back the victim, it doesn't put the lives of grieving family and friends together again.

Frankly, by inferring that execution or imprisonment -- which always takes place after the fact -- offers solace is condescending. Again I am putting that statement charitably.

The suspected gunman who shot Lt. White is serving two consecutive life sentences for other murders -- and it doesn't mean a thing to me or my family -- or to my sister-in-law and her daughters.

Another frequently voiced objection to any gun control legislation is the rallying cry, "when honest people give up their guns, only criminals will have them!" a red herring.

Consider, in 1980 -- the last year for which I have a record -- in 10 large U.S. cities, over 80,000 unregistered handguns were confiscated from people who were arrested. These guns were destroyed.

Based on that statistic, an educated guess tells us that at any given moment of any day, a police officer in a large city is confiscating an unregistered handgun.

To carry our ratiocination even further, simple arithmetic tells us that if we destroy 80,000 handguns per year, and the estimated number of guns in circulation is reportedly steadily increasing, someone sure has a tremendous amount of money at stake. Any action which can curtail the trade of unregistered weapons to unknown purchasers can have grievous effects on their pocketbooks.

But even more relevant is the fact that if we continue to confiscate guns from the criminal element -- and if we make it more difficult and expensive to replace those guns -- many of them will eventually be disarmed.

Note that I used the adjective "expensive."

Expensive to any common street hoodlum is anything over $50, the amount that "hot" Saturday Nite Specials sell for. These guys seldom have more than that amount in their pockets. If they do it's spent on alcohol, crack, pot, women, and being a cool bad dude.

So, if guns are registered, and their purchase is controlled, and purchasers have to be investigated and have clean records, the common street criminal won't be able to get a $50 gun. A few hundred dollars -- more than most of them ever get their hands on -- will be closer to what the black market will demand.

Another myth which is perpetuated is that handguns will be necessary to defend our nation when the Russians -- or Nicaraguans -- invade our shores. Anyone who seriously thinks that any well-equipped military force can be opposed with handguns has to be living in a fantasy world. Ask any combat veteran.

Finally, there is no unalienable Constitutional right to own or carry a handgun! Courts have ruled that the 2nd Amendment refers to the maintenance of a militia; the militia is armed with long guns.

I also bring to your attention the statistic that many -- a high percentage indeed -- of gun victims are not killed by anonymous criminals -- but by friends, relatives or neighbors. During the course of an argument when tempers flare, or when someone is drunk or under the influence of drugs. In these cases, the perpetrator is usually not armed to begin with but runs to where his or her gun is kept.

Strict gun legislation would not, of course, prevent all these occurances. But, many of these people have histories of instability, of violent tempers, of drunkenness. Enforcement of legislation would have prevented them from having handguns.

As to the argument that gun legislation should be a state matter, consider. Existing laws are a patchwork crazy quilt pattern. We need federal legislation to establish a single standard.

Finally, Congressmen, to counter the arguments of those who aver that any law-abiding, responsible adult should be permitted to own a pistol, I cite the circumstances of my friend Nicholas. Nicholas is in his mid-40's, unmarried he supports his widowed mother, has held a steady job for a single employer for 15 years. He pays taxes, pays his bills, attends church regularly, doesn't drink to excess or engage in boisterous behavior. By these standards he should be eligible to own a handgun.

Unfortunately Nicholas is a victim of Down's Syndrome. He has the mental and emotional development of a child of 10 or 12. I object to Nicholas being allowed to own a gun.

Neither do I feel certain other law-abiding members of our community should have guns. The blind, and many physically handicapped. Forgive me if this sounds insensitive or cruel, but I repeat -- not every honorable person is capable of being entrusted with a firearm. Just as they are not entrusted with drivers' licenses.

In closing, Congressman Hughes, Congressman Feighan, I want to ask you to consider legislation which will do a number of things to solve our handgun problem.

First, take steps to ensure that only qualified people are able to obtain them legally. Then keep accurate records of those who do, plus register the serial numbers of the guns they own.

Second, require gun manufacturers -- or the distributors of foreign-made handguns -- to provide ballistics data for each gun. This data can be filed with the serial number.

Third, require dealers to acquire licenses, to forward information on their inventory and to submit records on all transactions to a central agency.

Provide a channel of information which will record transactions between private parties.

These steps are not as complicated as they at first appear. In fact, they are the same efforts we make to register and record the sales and transfers of automobiles.

Thank you very much for your attention, Congressmen, ladies and gentlemen. I appreciate the opportunity of being heard.

Mr. HUGHES. Ms. Biederman.

I know that it has to be very, very difficult for you to come forward and testify, and we really do appreciate your willingness to do that. The great pain that you suffer is not easy to share publicly.

I wonder if I could just clarify a few things.

Ms. Biederman, I gather that Joel Betts was the triggerman that killed your father.

Ms. BIEDERMAN. Yes.

Mr. HUGHES. And he was convicted 2 years previous to that of killing one Samuel Deal?

Ms. BIEDERMAN. Right.

Mr. HUGHES. And was that in connection with a robbery?

Ms. BIEDERMAN. I do not know. He was convicted of that and he was put out on something called shock probation. So, he was again out on the streets.

Mr. HUGHES. But he was convicted of first-degree murder and he was paroled within 2 years?

Ms. BIEDERMAN. Yes.

Mr. HUGHES. And he committed the offense. He murdered your father within a week after he was released on parole.

Ms. BIEDERMAN. Right. He was released from parole on October 10th, 1974. He shot my father October 17th, which was 1 week later.

Mr. HUGHES. And you say that he was out on shock parole?

Ms. BIEDERMAN. Shock probation.

Mr. HUGHES. Shock probation. Well, that is hard for me to understand how a convicted slayer is, you know, released on parole after 2 years.

Ms. BIEDERMAN. I have the newspaper articles here with me. I could read it to you. It says, "Betts and three others have been indicted for aggravated murder and aggravated robbery of Erwin Biederman, 62. Although there has been testimony that Betts was the triggerman, two of the others were convicted of other charges."

Mr. HUGHES. Well, that is just absolutely horrible that a convicted slayer would be released on parole in 2 years.

Ms. BIEDERMAN. The headline reads, "Paroled Killer is Convicted of Murder of University Heights Jeweler."

Mr. HUGHES. Let me ask you another question. The handgun that was used in the slaying of your father, was that purchased at a lawful gun shop, do you know? Do you know anything about that?

Ms. BIEDERMAN. I do not. I know what happened at that time. We tried to help with the investigation of the murder, but our heads were really not into it in logical detail. I just do not remember clearly all the details. I remember going back to his store with the policemen, and having to see the scene of the crime and look for bullets.

They did find the handgun that the crime was committed with.

Mr. HUGHES. Had your father experienced previous robberies?

Ms. BIEDERMAN. Yes, he had. In fact, he had a gun in the store, but I think that because he was a very non-violent person, that even though he might have suspected his life was in danger, that he could not bring himself to use that handgun, and, so, those

criminals were the ones that used it and here he had a permit for his gun but was not the kind of person that could shoot another person.

Mr. HUGHES. Did he attempt to resist in any way the robbery?

Ms. BIEDERMAN. No, I do not think he would have ever attempted to resist. I do not know if my mother has any comments to make. He always said that whatever they wanted, they could have, that he did not care about the things or the property, that he valued life and that that was much more important to him than any thing. They could have any of the things they wanted.

So, I am sure he did not resist. But there were four. There were four of them against one, and he was alone at the time.

Mr. HUGHES. I see. Mr. White, you, in your testimony, indicate that the individual that killed your brother is serving two consecutive life sentences.

Mr. WHITE. Yes.

Mr. HUGHES. Was he convicted of the homicide of your brother?

Mr. WHITE. No, no. Congressman, two young men were tried for my brother's homicide and found not guilty, and, in retrospect, that was a just verdict. The young man who did shoot my brother was convicted of murdering a grocer, whose name, incidentally, was White and he was a restaurant owner in the black neighborhood.

Mr. HUGHES. Were the convictions in connection with robberies?

Mr. WHITE. Yes. And he was tried for each one of those crimes separately. If he had been found not guilty for either of them, they would have tried him for my brother's crime plus a fourth one that they knew he was guilty of.

Mr. HUGHES. But they did trace the weapon, did they?

Mr. WHITE. No.

Mr. HUGHES. They never did find the weapon?

Mr. WHITE. No, they never found the weapon. The weapon that was confiscated from the young man was purchased by him from somebody in the central area whose business is going down to one of the Carolinas and buying a gross of handguns and bringing them back and selling them in Cleveland. There is no law governing the sale of handguns down there.

Mr. HUGHES. Yes. Well, that is the case in many parts of our country, unfortunately. But they never did trace the handgun that was used in the commission of the homicide against your brother?

Mr. WHITE. No, not as far as I know.

Mr. HUGHES. All right. Thank you.

The gentleman from Ohio.

Mr. FEIGHAN. Thank you, Mr. Chairman.

Mr. White and Ms. Biederman, let me thank you very much for your testimony today, and as the chairman indicated, we understand how difficult it is. We try to understand how difficult it is to go through this experience again in your own minds, and I know in each of these instances, several years now have past, and I think it is all the more important that with the passage of time, you have remained active on this issue and are doing all that you possibly can as individuals to effect a change in laws that can prevent this from happening to other families.

One thing we have not really talked about at great length today is the impact that senseless murders of this nature has on families and friends. Have you found among your other family members and friends, in your case, of your brother and, in your case, your father, that it has changed their attitudes towards gun laws? Did it reinforce perhaps the views that they previously held about the need for stricter control of handgun purchases? Has it brought those people to more activity in terms of lobbying for State or Federal laws or has it made them more cynical about the criminal justice process?

Ms. Biederman, could you begin?

Ms. BIEDERMAN. Certainly. I would say that it definitely has changed our attitudes. There is nothing like living with something like this to make you aware and to sensitize you to these issues. I know personally that the rest of my family and our friends really did not think that much about it before this happened to us. I was used to seeing violence around me all the time, be it on television or at the movies, and guns are almost an intricate part of our society.

It was not anything I really thought about and when something like this happens, when you actually live the violence, it sure is a whole lot different than what is on TV. It just is not a bit like it is on TV and it does not look like it looks on the news when you are personally involved in something like this, and, so, that is how I got involved.

I am a member of Handgun Control, Inc., which Pete Shields runs. He lost his son in a hold-up in a restaurant. We have a network all across the country of families of victims, and you cannot believe how large this group is and how it is growing day by day.

I think of just some of the statistics that I heard here today. I mean, every day someone else is being killed in a senseless violent crime, an innocent victim, and not only do we lose that person, we have victims in the families as well. We have whole groups of victims in one fell swoop, and that is the reason that I am here today and that my family is here today, to support these issues. We realize how important it is only because, unfortunately, we had to live it.

Mr. WHITE. Yes. Congressman, I became very active in handgun control after my brother's murder and, as a matter of fact, I am more militant about it than you gentlemen are because I think your legislation could be stricter because I think whenever a person buys a handgun, we should know who owns that handgun, and if we can match ballistics of a bullet taken from a crime victim, we can follow it back logically and find out who owns the gun, who purchased the gun, where it went to, and find the murderer much easier.

And as far as the effect on crime victims, I became active in handgun control. My sister-in-law and my nieces, the trauma of this was just so great, they do not even consider it anymore. Mr. Sterling asked if I could have them here, but it is too painful to have them come down and talk about it. They are very cynical about the criminal justice system.

Mr. FEIGHAN. Well, your presence today and your testimony has been very powerful. We appreciate it very much.

Thank you.

Mr. HUGHES. I, too, want to thank you for coming today, Ms. Biederman, and your family. I know, as I indicated earlier, that it is not easy to do, and we understand and we just hope that we can do something that makes sense and rationale that will prevent the tragedy you personally have experienced.

Thank you very much.

Mr. WHITE. Thank you.

Ms. BIEDERMAN. Thank you.

Mr. HUGHES. We are going to recess for about 10 minutes and then we will take the final panel.

We are in recess.

[Brief recess.]

Mr. HUGHES. The Subcommittee on Crime will come to order.

The final panel today consists of a number of persons who requested to testify about the legislation.

In alphabetical order, let me just, if I might, begin with Mr. Joseph B. Clough, a Cleveland business man. His testimony is on behalf of the Gun Safety Institute, an Ohio educational foundation, which has surveyed Ohio's attitudes on firearms control measures.

Mr. Clough, will you come forward, please?

Mr. Barring Coughlin, is a member of the Cleveland law firm of Thompson, Hine and Flory, and is testifying on behalf of himself. He is one of Ohio's leading experts on firearms control legislation.

Mr. Gary Johnston, Contributing Editor, SWAT Magazine, is testifying on behalf of the American Firepower Association.

Mr. Kent Markus, a member of the Cleveland law firm of Gold, Rotatori, Schwartz and Gibbons and a member of the Handgun Control Federation of Ohio, is here on behalf of himself.

And, finally, Mr. Robert J. Mihelich of Cleveland, OH, who is testifying also on behalf of himself.

Gentlemen, we have some of your statements which will be made a part of the record in full without objection, and we hope that you can summarize your statements for us.

Let us begin with you, Mr. Clough. Welcome.

TESTIMONY OF JOSEPH B. CLOUGH, CLEVELAND, OH, ON BEHALF OF THE GUN SAFETY INSTITUTE

Mr. CLOUGH. Thank you, Mr. Hughes, Mr. Feighan, members of the panel.

I appreciate very much being invited to speak today. My testimony is going to be rather different because of the Gun Safety Institute, of which I am the President and one of the founders, is a 501(c)(3) organization and we never take positions on political matters and legislative matters and never advocate legislation, but since we were invited to speak on this legislation, H.R. 975, it seemed appropriate to make a few comments as to what we see in the legislation might need some attention.

The Gun Safety Institute in the past has been active in educational matters. For example, when Cleveland passed its handgun control ordinance in 1976, our group wrote a pamphlet which was very helpful to the police department in educating the citizens of Cleveland as to what is needed to comply with that, what steps to

take to comply with the regulations, and we published this and made it available to the public through public libraries and other institutions throughout the city.

We did the same thing with University Heights. When they wanted to reassert the legislation there, we made a pamphlet available for circulation in that city which again notified the citizens of how they should comply with the ordinance and what the penalties would be if they failed to comply.

The Gun Safety Institute has also been helpful to several communities, Cleveland and University Heights, in supporting the defense of handgun legislation. University Heights legislation was challenged in the courts and the Gun Safety Institute wrote an amicus brief which was very, very instrumental in bringing about a favorable decision by the Ohio Supreme Court on that legislation upholding entirely University Heights' law.

We support the purposes and objectives of H.R. 975 which mandates the 7-day waiting period, during which a background check of the applicant may be made, as a reasonable means of stemming the flow of handguns into the hands of disqualified persons.

However, we wish to sound a note of caution. Because of the litigation which we have participated in relating to upholding the existing handgun legislation in our community and knowing the legal technicalities that opponents of handgun control legislation constantly bring up in their efforts to defeat any regulation or enforcement of handgun regulations and legislation, we wish to be doubly sure that the proposed legislation does not introduce any new points of argument which will complicate enforcement.

We want to be absolutely sure that the proposed legislation does not preempt in any way local legislation which is already on the books or which may be passed by municipalities in Ohio in the future.

If requested by the drafters of this bill, counsel for the Gun Safety Institute will be pleased to confer offering recommendations based on our many years of experience in upholding statutes and ordinances regulating the purchase and possession of handguns.

Thanks for holding this public hearing and for the invitation to speak before you today.

Mr. HUGHES. Thank you very much, Mr. Clough. Mr. Coughlin, welcome.

TESTIMONY OF BARRING COUGHLIN, ESQ., CLEVELAND, OH

Mr. COUGHLIN. Mr. Hughes, Mr. Feighan.

I am going to say at the outset that I agree with what has been said about the necessity of doing something about this subject. If I did not believe in that, I would not have spent almost 20 years of my life having this as my principal extracurricular activity.

So I am not going to say anything more on that subject. Having already submitted a statement, I do not want to go into all of the detail that is contained in that statement, but I do want to say something about the problem of preemption.

This is a very complicated technical subject that we are dealing with. Anybody who gets into the drafting of gun control legislation discovers very quickly, as I am sure you have, that there are all

sorts of problems that you have to think out to be sure that you have something that is going to be workable.

We have done considerable polishing of ordinances in the Cleveland area. We have a number in effect and they have been improved from time to time, and they do work about as well as you can expect anything to work, which is limited to the outlines of one municipality.

Our problem is we do not have anything statewide and perhaps also that we do not have something nationwide, which is what you people are, for the first time, beginning to try to find for us.

So your legislation will give us the advantage of something which will apply throughout the State, but it will not be and is not expected to be as detailed and as complete as the municipal legislation which is already in effect in a number of cities in this community.

We do not want to lose the advantage of that local legislation. We started out with the Federal Gun Control Act of 1968, which provided for licensing of manufacturers, wholesalers and dealers, put restrictions on interstate shipment of handguns to unlicensed persons, and registered the weapons so long as they had not come to rest locally within the State. The invitation was there for the States to pick it up. Ohio did not, but municipalities within Ohio did.

And we put in provisions for what amounts to permissive licensing, that is licensing that anyone not disqualified can have, and registration of the handgun at the time of purchase.

It seems to work fairly well within a limited area. The peculiar effect in cities such as Cleveland is that it has driven the gun dealers pretty much out of Cleveland. Instead of having a lot of handguns registered in the City of Cleveland, instead we have some of the Clevelanders going elsewhere where the law does not apply to buy their handguns. That is why we need the Federal legislation.

But, still, we do have some protections in the Cleveland law that the new bill will not provide. I can give an example from Shaker Heights. A few years ago, a child was found shot to death in a park that runs between Shaker Heights and Cleveland Heights. The police were able to identify the child because, of course, his parents reported him missing. They ultimately found the handgun by looking in all the catch basins anywhere near the park.

As soon as they got the handgun, within an hour, they knew whose handgun it was and went to the owner. He had a permit to buy a handgun and appeared to be a perfectly law-abiding citizen. The handgun was registered to him and they asked him about it. He said yes, it is mine, and he discovered that the gun was missing. This man's son and two other children had taken the handgun, gone to the park to play with it, one of them was accidentally killed, they hid the body in the woods and dropped the handgun down in the catch basin.

But the Shaker Heights Ordinance worked as a tracing mechanism. The only thing is it does not go far enough because it does not spread out in area as yours does. But it does have those extra provisions in it that your bill does not.

Now, our concern is with the matter of preemption. We were not concerned under the old law because the Gun Control Act of 1968

provides that the Federal Government does not preempt the field so long as the local law is not clearly inconsistent with the Federal law.

The question of inconsistency of local ordinances with the Federal law has never even been raised in the litigation and there has been a considerable amount of it that we have had at least in Northern OH, and there are no reported cases in which the question appears to have been raised.

But we have a different preemption provision in this bill. Where the old one said "we don't preempt it unless you're clearly in conflict," the new one goes on and says "the local law" (and I assume that applies to ordinances because surely you cannot do by an ordinance what you cannot do by the legislature,) "the local law is not inconsistent if it contains certain provisions".

The ordinances in Northern Ohio do not satisfy that condition. Now, of course, it does not say and the ordinance is in conflict if it does not contain those provisions, but you can bet that we are going to the Supreme Court again on the validity of all of our ordinances if we have a provision that says they are all right if they satisfy those two conditions.

Now, the two conditions are in the alternative: that the local law either provides for a waiting period of at least 7 days before the transfer of a handgun, and I will stop on that one. Our local legislation has a waiting period of 10 days, but it is not related to the transfer of the handgun. It is related to the issuance of an ID card.

We do have an investigation made and I think our position on investigation is better than the one in this bill because it provides a 60-day period within which the investigation may be made and at the end of that period, the police either grant the ID card or they do not, but the man cannot buy his handgun until he gets the ID card, and if he thinks that the police have treated him unfairly, that is his fight with the police, not with the dealer. He cannot go and buy the handgun without the ID card just because the 10-day period has expired. They must wait at least 10 days to give him his ID card and as much longer as it takes to make the investigation.

Now, we have that 10-day waiting period, but it is on giving him his ID card, not on buying the handgun. Now, the effect is pretty much the same as under this bill because most people do not buy two handguns. They decide to buy a handgun. So they go and get a permit and they register the handgun and they get the handgun, and it does not make that much difference in the single handgun purchase whether you attach the investigation to the ID card or to the registration of the handgun. But all our ordinances attach it to the ID card.

So there is technically no waiting period on the transfer of the handgun, and if the man with the ID card comes back 1 week later and says "I decided I needed two handguns," he can buy the next one and all he has to do is register it. Now, the police at that time can check and see that he has an ID card in effect, but still there is no waiting period except for that check to make sure his ID card is in effect, which could be a matter of a couple of days, on the purchase of the second handgun.

There is always plenty of time for that if the man already has an ID card. So, you see, we do not satisfy that condition.

Now, the second condition is that before a handgun transfer is completed, a law enforcement officer shall determine that the transferee is qualified under law to receive a handgun. Now, we would meet that except for one problem. We say in Cleveland that he is entitled to have the ID card (and that is a condition, of course, to the transfer of a handgun) if the police do not determine him to be disqualified.

Now, the reason for the difference is that under your language, if you try to satisfy the condition by this language, you impose the moral obligation on the police to find out the facts, and they may not find out the facts. Now, you have solved this problem by saying they may investigate and he can buy his handgun after the 10-day period has expired even if they did not investigate it, as long as there has not been an unfavorable report, but in the condition of preemption, you provide that the police must have affirmatively determined him to be qualified, which is a responsibility that is not fair to put on the police.

So we cannot meet that one either. The result is we do not fall in the safe harbor that you provided, to let us escape from the preemption, and as sure as could be we are going to be faced with the problem of testing a second time the constitutionality of these ordinances.

Now, you may say, "Well, it is silly to say that a safe harbor provision creates a greater risk," but we have had sillier arguments than that. So we are very much concerned about this.

Now, there is another aspect of this and that is that while we never really had any conflict with the Gun Control Act of 1968, when you extend (as H.R. 975 does) the reach of the Federal legislation into intra-state transactions, you have some additional provisions that create additional opportunities for conflict.

We have mentioned some of these in the more extensive written statement submitted, but I will give you an example of the kind of thing that I am thinking about.

Under the Cleveland legislation and the legislation that Senator Fisher mentioned having introduced for many years in the Ohio House, that bill has a similar provision: the registration of the handgun takes place after title passes and before possession passes. Possession is the danger with a handgun. It does not matter whether a criminal owns a handgun, it matters whether he can get his hands on it, and the arrangement that we have is that he buys the handgun, puts it on his charge card, pays cash for it, uses his credit with the dealer or whatever, but he cannot have possession of it until he comes back to the dealer with the registration card in hand and the dealer records the number of the registration and that lets the dealer off the hook. He is presumed then to be protected against having sold to a disqualified person.

Title has passed because we do not want the same handgun registered twice. We do not want shoppers registering handguns at random and then not completing the transaction because through the beneficent effect of a waiting period they change their mind and do not buy it. Then, you cannot trace anything anymore.

He buys the handgun. He pays for it. Then, he registers it. Then he comes back with his registration card and picks it up. Now, through the registration card, that gun is registered at the place of

business of the dealer, and it must be kept indefinitely, the record of that transaction, so that you can trace a handgun through that.

This bill provides that the registration takes place before title passes, so that you have to send in two pieces of paper, one Federal and one State, and the Federal one is to be destroyed after 60 days, I believe it is, while the local one must be kept indefinitely. The Federal one is filed at the place of the residence of the buyer, while the local one is filed at the place of residence or location of the dealer, so that using the Gun Control Act of 1968, you can trace a handgun used in a crime from the manufacturer on through to the first sale and find out who has got it.

Now, these are details. I think there are reasons for doing some of these one way or another. We have spent, I think, 2 weeks working with the Law Department of the City of Cleveland and with the Police Department of the City of Cleveland, working out the bugs so that they could see in this legislation. They would say, "we will have trouble here," "we will have trouble there," and we fixed these things up.

Maybe we were wrong. Maybe some of these other proposals are the better way of doing it, but we have had one awful struggle getting these ordinances adopted and we hope not to have to go back and get them amended, and they might be held to be in conflict with this legislation.

I would hope that we do not have to have an anti-preemption clause that may make our problem worse. For one thing, I would call your attention to the fact that we do have a gun control law in Ohio. It is the one that forbids felons, children and so on, to possess a handgun and it does not have a 7-day waiting period. It does not have any waiting period at all. Is that going to be put at risk as well by this legislation? I am sure that was not intended, but it does seem to us that it would be possible to draft around that problem and around some of the other problems that we see in this legislation.

By being critical of it, I do not mean to imply that we do not like the idea of having Federal gun control go as far as it can go. But because we have what we think is a very good ordinance, we just want to be sure that it is not in any way imperiled and that the law of Ohio on this subject is not imperiled.

Thank you.

Mr. HUGHES. Thank you, Mr. Coughlin, for that contribution. That gives us some concern, too.

[Statement of Mr. Coughlin follows:]

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PROPOSED TESTIMONY
of
BARRING COUGHLIN
Concerning H. R. 975
Before the Subcommittee on Crime of
the Judiciary Committee of the
House of Representatives

John Marshall Law School
November 30, 1987

My name is Barring Coughlin I am a lawyer and a member of the law firm of Thompson, Hine and Flory in Cleveland, Ohio.

I have been active in the gun control movement for almost 20 years. I have assisted in the drafting of gun control ordinances adopted by the cities of Cleveland, Shaker Heights and Cleveland Heights and in the drafting of a bill introduced but not yet enacted by the Ohio Legislature. I have also assisted in the preparation of briefs dealing with the interpretation and constitutionality of gun control ordinances in criminal cases in Northern Ohio. While I have been an active member of two local organizations concerned with the handgun problem, I am not here as a representative of any such organization and the opinions I express here are my own and not those of any organization.

I have made a careful study of H. R. 975 and have a number of comments concerning it. Before doing so, however, I want to say that I appreciate the desire of Mr. Feighan and other sponsors of this legislation to be of genuine assistance to the handgun control movement. Mr. Feighan particularly has long been known to be a supporter of such legislation, and I hope that my testimony will be of some assistance to him in carrying out his most commendable objective. I would personally have preferred a somewhat different approach to this legislation but I do not intend to argue here the merits of the general approach taken by H.R. 975. I intend only to refer to some technical problems in the bill

some of which may present problems for communities which already have some handgun control legislation in effect. My problems are in the following areas:

1. Preemption. 18 U.S. Code §927 presently provides that a provision of the federal law does not "occupy the field" unless there is "a direct and positive conflict between such provision and the law of the state so that the two cannot be reconciled or consistently stand together." H.R. 975 amends §927 to provide that "a provision of state law is not in direct and positive conflict with section 922(p) if such provision provides —

"(1) for a waiting period of at least 7 days before the transfer of a handgun or

"(2) that, before a handgun transfer is completed, a law enforcement officer shall determine that the transferee is qualified under law to receive a handgun."

§922(p) is the new language added to the act by H.R. 975.

It is evident that the purpose of the amendment to §927 was to create a safe harbor for the protection of state legislation and to encourage adoption of language similar to the federal language in any newly proposed state action. It is possible, however, that counsel for defendants in cases which may later arise under local law may contend that the new language of §927 implies that the converse is also true: that any state law which does not contain a 7 day waiting period or a provision for investigating a prospective purchaser of a handgun is to be considered in direct and positive conflict and is therefore invalid. It may be clear to the draftsman of H.R.975 that its language cannot be read in reverse, but we have twice had to wait for the Supreme Court of Ohio to dispose of arguments more frivolous than this one.

In fact, the existing firearms control law of Ohio contains restrictions on the transfer of handguns but does not impose any waiting period at all nor does it provide for any investigation of the prospective purchaser. The new provision of H.R. 975 refers specifically only to "State law." Nothing is specifically said about ordinances of municipalities within a state, but it seems not improbable that any preemption clause will be applied to municipal ordinances as easily as to state laws; it is hard to believe that a municipality may validly do what a state may not validly do.

The ordinances presently in effect in Cleveland and a number of other cities do not meet the test either, although they may well satisfy the spirit of it. The Cleveland ordinance for example provides that no one may acquire possession of a handgun who does not have a handgun holder's identification card, and that identification card may not be issued until the state has had from 10 to 60 days to investigate. A 10 day delay is therefore effectively provided. However, once the prospective gun owner has his identification card, no further investigation is required before he can purchase a handgun. Moreoever, the investigation is not one which the law enforcement officer must determine that the "transferee is qualified under law to receive a handgun." Instead the local ordinances require issuance of the identification card if the law enforcement officer fails to determine that the transferee is disqualified. The problem here is that the disqualifications under the state law are sufficiently extensive that the police are unwilling to undertake the responsibility of saying affirmatively that the applicant is qualified. One can be only so omniscient.

The result of these concerns is that most state laws and local ordinances may be invalidated by the enactment of H.R. 975. I would most urgently recommend that the amendment of 18 U.S. Code §927 be omitted from the bill.

2. Transfer of title or possession. The introductory language to the proposed new section 922(p)(1) is that it be unlawful for any person to "sell, deliver, or transfer a handgun..." the words "sell, deliver or transfer" are somewhat ambiguous. The local ordinances in Northern Ohio in general refer to transferring possession. The word "sell" ordinarily refers to transfer of title, while "deliver" would seem to refer to the transfer of possession. The word "transfer" standing alone does not seem to refer to anything with particularity.

It is possession of a handgun by a disqualified person which is dangerous to the public. The Cleveland ordinance, for example, permits the transfer of title before the purchaser has an I.D. card but not the transfer of possession. In fact under the language used in Cleveland and elsewhere, the transfer of title must take place first because of the danger that otherwise a record may be made implying the transfer of possession of a handgun which never in fact is concluded. Thus in Cleveland the purchaser buys his handgun, registers his purchase with the authorities, records the registration form with the dealer, and then takes possession. The use of a different schedule of events under the federal law would seem to require the filing of two forms, one before title passes and one afterward, but both

before transfer of posssession takes place. While it is perfectly possible to have such an arrangement, it would be far less confusing to the ordinary transferor, and far less nuisance to the dealer who wants to comply with the law, if one form could be utilized for both purposes or if not, that identical rules could apply to the filing of the two separate forms.

3. Place of filing. The sworn statement to be filed under H.R. 975 is to be filed with the chief law enforcement officer of the place of residence of the transferee. The local ordinances in Northern Ohio require the making of the similar record with the law enforcement officer where the transferor is located, it being thought that if a handgun is found at the scene of the crime it can be more easily traced through the dealer where the suspect is not yet known.

In connection with this point it should be noted that if the chief law enforcement officer finds that possession of the handgun by the transferee is unlawful he reports back to the transferor who then notifies the chief law enforcement officer at the place of business of the transferor as well as at the place of residence of the transferee.

Unfortunately we are not given the reason for this rather different provision.

An additional timing problem is that the buyer may take possession of his handgun if the seven day period has expired whether or not the authorities have been heard from. Under the local ordinances the buyer cannot take possession of his handgun until he has an I.D.card. One who applies for an automobile driver's license may not legally drive a car until he has received his card. It will not do to say that he passed his test but for some reason has not received the card; that delay is an argument between the prospective licensee and the licensing authority, but the unjustified delay does not permit driving without a license. Furthermore, 7 days may be too short a time for the bureaucratic delay involved in filing the application, making all the appropriate investigation, and mailing the results back to the dealer. Ordinances ordinarily give the police authority 30 or 60 days to complete whatever investigation they consider appropriate.

4. Transfer "otherwise permitted by law." The bill provides that it shall be unlawful to transfer a handgun "otherwise permitted by law" if the conditions of the bill are not met. It is believed that the quoted words should be omitted. To include these words is to say that the new bill will not apply to transfers to the felon, the criminal, or the child. Of course those transfers are illegal in any event and apparently the draftsman thought it was necessary to include registration only where the transfer was not otherwise prohibited. However, there may be problems here of requiring the charging of violations of the law in the alternative. If a handgun is in fact transferred by a dealer to a convicted felon, and he is charged with knowingly making such a transfer he can defend on the ground that he did not know the transferee was a felon. He must then be charged in the alternative with having made a transfer to a person otherwise permitted by law without the required filing and he can now defend on the ground that the transfer was not in fact otherwise permitted by law.

Furthermore, it seems to me rather bad public relations to have a law requiring lawful transactions to be registered and not requiring registration of the unlawful transfer. Perhaps this peculiar arrangement has been made in deference to the Supreme Court decision that requiring the registration of the purchase of a machine gun is unconstitutional because it requires the possessor of the unlawful weapon to disclose his own violation of the law. This can be avoided, however, by requiring the dealer to register the sale rather than the purchaser or by forbidding the dealer to make a transfer to a person who does not present an identification card. Application for the identification card does not disclose that the applicant is guilty of a crime because he has not yet acquired his handgun.

5. Destruction of records. The bill provides that the registration document shall be destroyed after 60 days. The existing ordinances require that the record shall be retained indefinitely. Since apparently registration is in any event required at two different times under the bill and under the local ordinances, there will presumably be two pieces of paper, one of which can be destroyed to comply with federal law and one retained to comply with local law. It might be better to require that the federal record shall be destroyed unless local laws or ordinances require it to be retained.

6. Dealer protection. Under the local ordinances, if the identification card has been issued to the prospective purchaser, the dealer may rely on it and is not penalized for selling to a disqualified person unless actual knowledge is proved against him. It seems reasonable to protect the dealer where the

authorities have had an opportunity to investigate. This protection for the dealer appears to be omitted in H.R. 975, so that the dealer who relies on the investigation made by the local authorities is still acting at his peril under the federal law.

7. Threat to the purchaser's life. The bill provides an exception where the chief law enforcement officer states that the transferee requires access to a handgun because of the threat to the life of the transferee. It is suggested that this exception should be omitted. If the chief law enforcement officer has time to discover the transferee's need of a handgun, he ought to have time to discover whether or not he is qualified.Moreover, if the prospective purchaser is so in need of a handgun that he cannot wait 7 days, the risk is rather great that he may be a disqualified person or someone who is about to become disqualified by engaging in a shoot-out.

8. Exemptions. The existing law provides a number of exemptions, including licensed collectors and licensed dealers, carriers for hire and use of firearms by the military. H.R. 975 adds no new exemptions. Consideration should be given, however, to the possibility that the broader application of the language of the bill makes necessary the inclusion of new exemptions. For example, if a transfer of title takes place from a decedent to his executor is that transfer illegal because it was not registered in advance? If we do not require it to be registered in advance, as clearly we cannot, should there be a requirement that the executor register it after his appointment? Should the later transfer by the executor be registered?

Another problem is the transfer of possession from one spouse to another. If, for example, a man who is frequently away on business authorizes his wife to use his handgun if necessary while he is away, must each transfer from husband to wife be registered? If we do not require something of the sort, the wife of a disqualified person such as a convicted felon, could buy the handgun her husband could not lawfully buy and transfer possession to him. If she does is she guilty only of an unlawful transfer under the transfer under the existing law or is she subject to the registration requirement of the new law?

The transfers that take place in a security agency or between a bank and its security force must also be considered. It is probably desirable that the law enforcement authority investigate a security guard who is to wear a handgun. If a seven day delay is required every time possession is transferred from the employer to the employee, it makes impractical a common arrangement in which the employee returns his handgun to his employer when his work day is over. This is a desirable arrangement, but the requirements of the bill will encourage the employer to give the guard permanent possession of the handgun.

9. Interstate application. Existing federal law applies to interstate transactions and transactions by dealers licensed to receive handguns in interstate commerce. It does not purport to apply to purely intrastate transactions. The attempt to make such application may raise serious constitutional questions as to the scope of federal authority.

For the reasons set out above, it is recommended that a careful comparison of the provisions of the bill with state and local law should be made to eliminate overlapping and inconsistencies. It is most important, however, that there should not arise a possibility of claiming a federal preemption of the field which would invalidate all the laws and ordinances presently in effect, some of which have proved successful in their limited areas. If the bill is enacted as drafted it might seriously endanger many years of progress in local gun control.

Mr. HUGHES. Mr. Johnston, welcome.

TESTIMONY OF GARY JOHNSTON, CONTRIBUTING EDITOR, SWAT MAGAZINE, ON BEHALF OF THE AMERICAN FIREPOWER ASSOCIATION

Mr. JOHNSTON. Yes, sir.

Mr. Chairman, thank you very much for allowing me to testify before you today on this emotional issue. I am Gary Paul Johnston. I am from Shaker Heights, OH, and the points I would like to make are as follows:

Number 1. That as a police officer, I am well aware of the problem of handguns being used in crime.

Number 2. That I am sworn to uphold and defend the United States Constitution, and that I follow the clear intent of our forefathers in particular with regard to the Second Amendment.

Number 3. That the vast majority of criminals would be unaffected by any waiting period just as they are unaffected by all anti-gun laws.

Number 4. That a law requiring a waiting period to purchase a handgun is nothing more than back door gun control which will cause the law-abiding public unnecessary hardship while attempting to lull people into a false sense of security.

Number 5. That the only way to keep guns out of the hands of criminals is to keep criminals away from guns. If we want to pass a law which will have an impact on crime, make it a Federal offense to steal a firearm.

I have been a police officer for more than 24 years, first in the City of Los Angeles, and then here in Ohio. I have seen hundreds of crimes where firearms were used and thousands of other weapons, such as knives or clubs, were involved.

Wearing a protective vest is something I take for granted everyday. Yet, I come before you to speak out strongly against this bill, mainly for the vague way in which it is written. When I first became a police officer, I took an oath. To some, an oath of office may amount to merely repeating some words, but it has always been a serious matter to me. That oath was to uphold and defend the Constitution of the United States of America.

Over the years, I have come to truly cherish the principles for which it stands while others, even some who are police officers, continually attack it in the belief that their job will be made easier if this or that element of the Constitution was abolished.

Of particular concern is the attack on the Second Amendment of the Constitution which, by its numerical order, was clearly next in importance to our founding fathers only to the right of freedom of speech and religion. That the people must have a right to keep and to bear arms continues to be debated over just what the forefathers meant in the wording of the Second Amendment.

Some contend that the intent was to provide for only a State militia or national guard and not for the private ownership of firearms. For a clear meaning of their intentions, let us refer to other writings by the founding fathers. In a Virginia Constitution of 1776, Thomas Jefferson wrote, "No free man shall be debarred of the use of firearms within his own land." Patrick Henry wrote,

"The great object is that every man be armed, everyone who is able may have a gun."

James Madison, author of the Second Amendment, wrote in the Federalist Papers, "The ultimate authority resides in the people alone due to the advantage of being armed, which the Americans possess and the people of almost every other nation."

George Washington wrote, "Firearms stand next in importance to the Constitution itself. They deserve a place of honor with all that is good."

Some argue that the Second Amendment was written in accord with the now antique weapons used in the Revolution and it was never meant to provide for the private ownership of small arms now in existence which are terrible by comparison. Hogwash.

To the founding fathers of Pennsylvania, flint rock rifles and pistols were the most sophisticated arms in the world, and by comparison with anything else were far more deadly or safe depending upon which end one was at. Yet, they guaranteed that every American would be allowed to own these guns.

During the almost quarter of century that I have been in law enforcement, I have personally encountered many hundreds of incidents where firearms were used to perpetrate crimes and I have discussed the acquisition of such firearms with almost as many criminals. The fact that most of these firearms were stolen and that almost none were purchased through retail firearms dealers is clear.

Some studies, such as the Wright and Rossi Study, report that well over 90 percent of such firearms are acquired either illegally or on the street where there is never a waiting period.

Congressman Feighan wishes to minimize the thousands of injuries and deaths caused by handgun misuse each year. We all know his ultimate goal is to abolish the private ownership of firearms, of handguns, I should say, just as it is with Handgun Control, Incorporated.

I hope any thinking human being would want to see the misuse of handguns reduced. In the first place, however, the annual statistics of handgun injuries and deaths include all justifiable shootings, even those by police officers. So we are misleading from the start.

Secondly, the remainder, since the vast majority of handguns used are not obtained through channels where a waiting period would apply, such a mandatory waiting period would do no good or little good. We might just as well require a waiting period in another country because people who use firearms to commit crimes in the U.S. certainly do not obey our laws and never will.

A law requiring a waiting period to buy a handgun is nothing more than back door gun control which will cause total unnecessary hardship only on the decent law-abiding citizens while at the same time attempting to lull them into a false sense of security that will somehow make things better, which it will not.

The police, too, would be even more burdened with records of handgun purchases by honest citizens while criminals would go merely about their trade a block away. I would estimate that it would cost approximately $2,000 per each 100 applications processed and over $1,850 of this would be wasted according to the findings of Wright and Rossi, and you and I both know that the police

departments would be pressured into processing each and every application.

Your provisions also allow police to arbitrarily deny permits based on race and other prejudices. Laws against guns is not the answer to crime. Laws against criminals is the answer. For far too long, we have treated these individuals as if they were an endangered species.

During my tenure as a police officer, I can attest to the fact that nearly 100 percent of the hundreds of thousands of felons arrested each year have a record of prior felony convictions, most of them have extensive records, and each one of them commits hundreds of felonies each year. It is the only lifestyle they know and the only one they will ever pursue. It is them against us. They pillage, rape and burn. They provide our children with drugs and they murder, too. They rob our society of billions of dollars a year, thousands of lives, and an immeasurable amount of love, trust, dignity and decent love, yet they continue to walk our streets in relative safety.

Firearms are only a small part of the crime problem, but since the issue here is handguns, we could begin if we really wanted to start to make a difference. Let us stop wallowing in the belief that laws against inanimate objects are valid. Let us work for laws which deal with the misuse of those objects, in this case, handguns, and make the laws harsh and the punishment swift and sure.

I watched one of my best friends die after being shot with a handgun which had been snatched from another policeman's holster during arrest. Waiting period. This suspect who had burglarized a store had a lengthy record of convictions and should never have been allowed back on the street. Implementing the death penalty may not stop crime, but it will reduce repeaters. Others must be removed from society. If that means building more prisons, build them.

Any firearms law attempting to prevent criminals from obtaining guns from the source is doomed because only 7 percent of handgun predators purchase their handguns from a dealer. This is according to a government study by Wright and Rossi.

We must change the minds of criminals or remove them from our streets. If you want to pass a meaningful Federal law, then make it a Federal offense to steal a firearm.

In summation, let me repeat that no, no law aimed at the public in general will result in a decrease in crime. In the study, "The Armed Criminal in America," the National Institute of Justice, conducted by Mr. James Wright and Mr. Peter Rossi, a $400,000 government grant, the following findings were made:

That of the thousands of firearms predators interviewed in prisons across America, 93 percent had obtained their handguns from sources other than a dealer, and of those, 70 percent either knew or believed the gun they obtained to have been stolen, and of these stolen guns, 80 percent came from private homes.

That when asked what they would resort to if it was impossible for them to get hold of a handgun, three-quarters of these same firearms predators stated they would use a sawed-off shot gun, a weapon far more deadly than a handgun.

That, in summation, they reported that implications are that firearms policies or controls imposed at the point of retail sales

would not be effective in preventing acquisition of guns by serious adult felons because these felons rarely obtain their guns through customary retail outlets.

I might add that when Mr. Wright and Mr. Rossi began their study, they were of the opinion that tougher gun control laws were needed, but were of a different opinion once they saw the true facts.

Since the theft of firearms is the predominant source of guns by the firearms predators or that person who commits such crimes as armed robbery and murder, then, Mr. Chairman, if you really want to do something to turn this tide of crime with guns, I call upon you and all lawmakers to work for a law which would make it a Federal offense for stealing a firearm and require agencies responsible to enforce this law.

As for the rest of us, we must remain free and only free men can own guns. The thought I would leave you with is this: that it is far less important that we choose not to own a gun than that we choose not to have the right to own one.

Thank you.

Mr. HUGHES. Thank you, Mr. Johnston.

[Statement of Mr. Johnston follows:]

SUMMARY

OF

GARY PAUL JOHNSTON

ON

HR975

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TESTIMONY OF

GARY PAUL JOHNSTON

IN BEHALF OF THE AMERICAN FIREPOWER ASSOCIATION

BEFORE

THE SUBCOMMITTEE ON CRIME

COMMITTEE OF THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

ON HR975

30 NOVEMBER, 1987

Mr. Chairman,

Thank you very much for allowing me to testify before you today. I am Gary Paul Johnston, from Shaker Heights, Ohio. The points I want to make are as follows:

1. That, as a police officer, I am well aware of the problem of handguns being used in crime.

2. That I am sworn to uphold and defend the United States Constitution, and that I follow the clear intent of our Forefathers, in particular with regard to the Second Amendment.

3. That the vast majority of criminals would be unaffected by any waiting period just as they are unaffected by all anti-gun laws.

4. That a law requiring a waiting period to purchase a handgun from a Federal Firearms Licensed dealer is nothing more than "back-door" gun control which will cause the law abiding public unnecessary hardship while attempting to lull people into a false sense of security.

5. That the only way to keep guns out of the hands of criminals is to keep criminals away from guns.

I have been a police officer for more than twenty-four years, first with the City of Los Angeles, and then here in Ohio. I have seen hundreds of crimes where firearms were used, and thousands where other weapons, such as knives or clubs, were involved. Wearing a protective vest is something I take for granted every day. Yet, I come before you to speak out against this bill.

*****

GARY PAUL JOHNSTON, p-2

When I first became a police officer, I took an oath. To some, an oath of office may amount to merely repeating some words, but it has always been a serious matter to me. That oath was to uphold, and defend the Constitution of The United States of America. Over the years I have come to truly cherish the principals for which it stands while others, even some who are police officers, continually attack it in the belief that their job would be easier if this, or that element of the Constitution were abolished.

Of particular concern is the attack on the Second Amendment of the Constitution which, by its numerical order, was clearly next in importance to our Founding Fathers only to the right to Freedom of Speech, and Religion. That the people must have a right to "keep and bear arms" continues to be debated over just what the Forefathers meant in the wording of the Second Amendment. Some contend that the intent was to provide for only a State Militia, or National Guard, and not for the private ownership of firearms.

For a clear meaning of their intentions, let's refer to other writings by the Founding Fathers; In the Virginia Constitution of 1776, Thomas Jefferson wrote, "No free man shall be debarred the use of arms within his own land."

Patrick Henry wrote, "The great object is that every man be armed...everyone who is able may have a gun."

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George Washington wrote, "Firearms stand next in importance to the Constitution itself...They deserve a place of Honor with all that is good."

Some argue that the Second Amendment was written in accord with the now antique weapons used in the Revolution, and was never meant to provide for the private ownership of the smallarms now in existence which are "terrible" by comparison. Hogwash! To the Founding Fathers, the Pennsylvania flintlock rifles and pistols were the most sophisticated arms in the world, and, by comparison with anything else, was far more deadly (or safe, depending on which end one was at). Yet they guaranteed that every American would be allowed to own these guns.

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During the almost quarter century I have been in law enforcement, I have personally encountered many hundreds of incidents where firearms were used to perpetrate crimes, and I have discussed the acquisition of guch firearms with almost as many criminals. The fact that most of these firearms were stolen, and that almost none were purchased through a retail firearms dealer is clear. Some studies, I am told, report that well over 90% of such firearms are acquired either illegally, or on the street where there is never a waiting period.

GARY PAUL JOHNSTON, p-3

Congressman Feighan wishes to ..."Minimize the thousands of injuries and deaths caused by handgun misuse each year." I hope any thinking human being does. In the first place, however, the annual statistics of these injuries and deaths include all justifiable shootings, even those by police officers, so are misleading from the start. Secondly, of the remainder, since the vast majority of the handgons used are not obtained through channels where a waiting period would apply, such a mandatory waiting period would do no good. We might just as well require a waiting period in another country, because people who use firearms to commit crimes in the U.S. certainly do not obey our laws now, and never will.

*****

A law requiring a waiting period to buy a handgun is nothing more than more "backdoor" gun control which will cause totally unnecessary hardship only on the decent, law abiding citizens while, at the same time attempting to lull them into a false sense of security that it will somehow make things better which it will not. The police, too, would be even more burdened with records of handgun purchases by honest citizens while criminals could go merily about their trade a block away.

*****

Laws against guns is not the answer to crime. Laws against criminals is the answer. For far too long we have treated these individuals as if they were an endangered species. During my tenure as a police officer I can attest to the fact that nearly 100% of the hundreds of thousands of felons arrested each year have a record of prior felony convictions, most of them have extensive records, and each one of them commits hundreds of felonies each year. It is the only lifestyle they know, and the only one they will ever pursue.

It is them against us. They pillage, rape, and burn. They provide our children with drugs, and they murder too. They rob our society of billions of dollars each year, thousands of lives, and an immeasurable amount of trust, dignity, peace and love. Yet they continue to walk our streets in relative safety.

Firearms are only a small part of the crime problem, but since the issue here is handguns, we could begin there if we really wanted to start to make a difference. Let's stop wallowing in the belief that laws against inanimate objects are valid. Let's work for laws which deal with the misuse of those objects, in this case, handguns, and make the laws harsh and the punishment swift and sure.

I watched one of my best friends die after being shot with a handgun which had been snatched from another policemans' holster during an arrest. Waiting period? This suspect, who had burglarized a store, had a lengthy record of convictions, and should never been allowed back out on the street.

Implementing the death penalty may not stop crime, but it will reduce repeaters. Others must be removed from society. If it means building more prisons, build them. As for the rest of us, we must remain free, and only free men own guns. Armed men are citizens. Unarmed men are subjects.

The thought I would leave you with is that it is far less important that we choose not to own a gun, than that we choose not to have the right to own one.

Respectfully yours,

Gary Paul Johnston

Mr. HUGHES. Mr. Markus, welcome.

TESTIMONY OF KENT MARKUS, ESQ., GOLD, ROTATORI, SCHWARTZ AND GIBBONS, CLEVELAND, OH

Mr. MARKUS. Thank you, Mr. Chairman and Congressman Feighan.

I certainly appreciate your patience in suffering through the end of this. I am an attorney here in Cleveland at the law firm of Gold, Rotatori, Schwartz and Gibbons, and I currently serve as the Vice Chair of the Board of Trustees and the Legislative Committee Chair of the Handgun Control Federation of Ohio.

I am here to speak in favor of H.R. 975. I feel constraints to begin my remarks with a very brief disclaimer. Because of the short notice regarding this hearing, the Board of Trustees of the Handgun Control Federation was unable to meet to confirm the remarks that I make today fully represent those of the board. Accordingly, on those subjects about which the board has never had the opportunity to take a formal position, I am here today speaking only as an individual keenly interested in the impact of handguns on our daily lives.

Mr. Chairman, before beginning the practice of law with my current firm, I worked for a Federal judge here in Cleveland. As we all know, one of the functions taken on by trial judges throughout the land is to assist with efforts to get the lawsuits settled. The judge for whom I worked had a rule of thumb for determining whether a settlement was a good settlement.

If everybody went away with something but nobody went away satisfied, that, according to the judge, was a good settlement. It is my view that H.R. 975 is that sort of good settlement at this point in time.

The Handgun Control Federation of Ohio with members from throughout the State has long championed the middle ground on the issue of handgun control. Our membership includes Republicans and Democrats, conservatives and liberals, gun owners and those who choose not to own guns. We are not anti-guns. We favor sensible restrictions on handgun access, opposing equally those who support complete bans on handguns and those who would eliminate all restrictions on handgun ownership.

We believe that the unregulated availability of handguns poses an unacceptable threat to society. Both the Ohio Legislature and the United States Congress determined long ago that certain people were simply too big a risk, that they simply could not be allowed to own handguns. Those people include, of course, the convicted felons, those who have been judged mentally incompetent, drug addicts and others. Few would argue that these restrictions are unreasonable.

Yet, in most jurisdictions, there is virtually no enforcement of these eminently sensible prohibitions. Are the police falling down on their job? Absolutely not.

As you well know, and as you have seen today the major police organizations have rallied in support of this legislation because it will provide them with more of what they need to be able to stop crime and enforce handgun laws.

Mr. Johnston suggested in his remarks that he is concerned about police burdens. The police were here today. We know where they stand. Why then there is no enforcement of these existing requirements? Because the only enforcement legislation which has ever been adopted deals with the problem in an after-the-fact way.

Mr. White and Ms. Biederman, who were here today, reminded us of how meaningless the current law is to the families of handgun victims because of the after-the-fact treatment of the situation.

A convicted felon who wishes to buy a handgun today at any jurisdiction governed only by Federal law is required to fill out a form indicating that he or she is not a felon. That is the only requirement. I think that it will come as no surprise to anyone that felons have indicated a willingness to lie on that form.

I would ask the members of the subcommittee to ask themselves and their colleagues in the House a few simple questions. Are we satisfied to leave it up to convicted felons to tell us whether or not they have a record? Do we trust those who have been adjudged mentally incompetent to reveal that fact when they go into a gun shop to buy a handgun? And do the American people know right now that there is no background check on people who want to buy a handgun?

I would suggest that the answer to each of these questions is no. The American people would, I think, be shocked to learn that under Federal law, convicted rapists and murderers need only claim that they are free from restrictions on handgun ownership. If they are willing to risk the penalties for falsifying a Federal form should they somehow be caught, nothing will stop them from going into any store that sells handguns and picking up one or two.

Thanks to the efforts of Congressman Feighan, a member of the board of Handgun Control Federation of Ohio, and Senator Metzenbaum and you, Chairman Hughes, there is hope that there may be a nationwide system which better enforces the existing prohibitions on handgun ownership.

I am, to be honest, offended by Mr. Johnston's statement and his remarks that Congressman Feighan wishes to ignore injuries caused by handguns. His leadership on this issue, along with the leadership of Senator Fisher, who testified earlier in Ohio, are commendable. But even the statewide legislation that Senator Fisher proposes is insufficient.

The Federal legislation which this subcommittee is considering takes one more step in the direction of keeping guns out of the hands of felons, the mentally incompetent and drug addicts, and H.R. 975 does more than help the enforcement of existing prohibitions. By virtue of its mandatory waiting period provision, Congressman Feighan's bill will eliminate an undeterminable number of incidents in which people commit acts in a fit of passion which they regret for the rest of their lives.

Dr. Harold Tater, a member of HCF's board, has written an article regarding the handgun as being something akin to a serious pathogen. For those as unschooled in medical terminology as I was before reading the article, a pathogen is a virus or disease which may lead to death.

In his article, he makes a compelling case for the proposition that handguns allegedly purchased for personal protection are

almost never used that way. Instead, statistics show, as Dr. Adelson testified today, that those handguns are regularly used to commit crime and suicide.

Given this kind of research finding, why should there not be a cooling-off period for those who wish to buy handguns?

Mr. Johnston, in his remarks, suggested the waiting period would cause the law-abiding citizen unnecessary hardship. I view the waiting period issue as a trade-off between lives and convenience. While there may be some inconvenience in having to wait 1 week to get a new gun, is it not worth it if that requirement saves lives and prevents tragic murders and impulsive suicides?

H.R. 975 provides that life-saving cooling-off period while simultaneously giving law enforcement authorities some opportunity to keep handguns away from those prohibited from having them. If that sounds like a ringing endorsement of H.R. 975, it is, at least as good as that settlement that I mentioned at the beginning of my remarks. That settlement from which everybody walks away with something but nobody walks away fully satisfied.

To be frank, I do not believe and I feel confident that the board of the Handgun Control Federation of Ohio does not believe that this legislation goes far enough. We have long favored a comprehensive system of licensing and registration. It is HCF's view that such a system is the only way to fully enforce the prohibitions on handgun ownership which we all agree to be sensible.

I am not satisfied with H.R. 975, but I am for it. Mr. Johnston suggests that the vast majority of criminals would be unaffected by this legislation. The statistics, the testimony, and the information presented today demonstrates that this legislation would impact on criminals.

I can only wish that groups opposing this legislation will also move towards the middle ground, a position which will save lives.

Former House Speaker Tip O'Neill, my former boss, used to have a sign on his desk which read, "Politics is the art of compromise." Without in any way jeopardizing the legitimate interests of responsible handgun owners, this legislation provides law enforcement authorities an opportunity to conduct a background check on prospective handgun purchasers.

In addition, its cooling-off period will reduce the number of senseless tragedies which result in spur of the moment decisions to purchase deadly handguns. It is a reasonable compromise.

I would add, the HCF board. He is of the view that certain mechanical and technical changes would be advisable prior to the adoption of H.R. 975. As you have seen, Barring Coughlin is a fellow member of the HCF board, is a man with an extraordinary wealth of knowledge on the subject of handgun laws, and has prepared his testimony on that subject.

I strongly encourage the subcommittee to carefully review his prepared remarks.

Mr. Chairman, a statewide poll taken in Ohio not long ago indicated that 80 percent of all Ohioans favored handgun registration and over 93 percent favored the imposition of a waiting period. You, Congressman Feighan, and Senator Metzenbaum are to be congratulated for taking the courageous leadership position on this issue which you have.

It is my sincere hope that the national waiting period legislation which makes possible the background check on prospective handgun owners will be adopted by this Congress. It will, I believe, result in our mutual goal of reducing the level of carnage caused by handguns in America today.

I thank you, Mr. Chairman, for providing me the opportunity to testify.

Mr. HUGHES. Thank you very much, Mr. Markus.

[Statement of Mr. Markus follows:]

TESTIMONY OF KENT R. MARKUS,

VICE-CHAIR, HANDGUN CONTROL FEDERATION OF OHIO

Remarks before the Subcommittee on Crime
of the U.S. House of Representatives
Judiciary Committee

Cleveland Marshall College of Law
November 30, 1987

(ONE PAGE SUMMARY)

The Handgun Control Federation of Ohio, with members from throughout this state, has long championed the middle ground on the issue of handgun control. We favor sensible restrictions on handgun access, opposing equally those who support a complete ban on handguns, and those who would eliminate all restrictions on handgun ownership.

The American people would, I think, be shocked to learn that under federal law, convicted rapists and murderers need only claim that they are free from handgun ownership restrictions. If they are willing to risk the penalties for falsifying a federal form should they somehow be caught, nothing will stop them from going into any store that sells handguns and picking up one or two.

Thanks to the efforts of Congressman Feighan, a member of the Board of the Handgun Control Federation of Ohio, and Senator Metzenbaum -- two legislators of which Ohioans can be genuinely proud -- there is hope that there may be, nationwide, a system which better enforces the existing prohibitions on handgun ownership. The legislation which this subcommittee is considering takes one more step in the direction of keeping guns out of the hands of felons, the mentally incompetent, and drug addicts.

I view the waiting period issue as a trade-off between lives and convenience. While there may be some inconvenience in having to wait a week to get a new gun, isn't it worth it if that requirement saves lives, preventing tragic murders and impulsive suicides?

Congressman Feighan and Senator Metzenbaum are to be congratulated for taking the courageous leadership position on this issue which they have. It is my sincere hope that national waiting period legislation, which makes possible a background check on prospective handgun owners, will be adopted by this Congress. It will, I believe, result in our mutual goal of reducing the level of carnage caused by handguns in America today.

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Remarks before the Subcommittee on Crime
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November 30, 1987

Good morning Mr. Chairman and Members of the Subcommittee. My name is Kent Markus. I am attorney here in Cleveland with the law firm of Gold, Rotatori, Schwartz & Gibbons. I currently serve as the Vice-Chair of the Board of Trustees and Legislative Committee Chair of the Handgun Control Federation of Ohio. I am here to speak in favor of HR 975.

I begin my remarks with a brief disclaimer. Because of the short notice regarding this hearing, the Board of Trustees of the Handgun Control Federation of Ohio has been unable to meet to confirm that the remarks I make today fully represent those of the Board. Accordingly, on those subjects about which the Board has never had the opportunity to take a formal position, I am here today speaking only as an individual keenly interested in the impact which handguns have on our daily lives. At the same time, it is my personal view that if time had allowed, the Board of the Federation would have concurred in all of the remarks which I make today.

Mr. Chairman, before beginning the practice of law with my current firm, I worked for a federal judge here in Cleveland. As we all now, one of the functions taken on by trial judges throughout the land is to assist with efforts to get lawsuits settled. The judge for whom I worked had a rule of thumb for determining whether a settlement was a good settlement. If everybody went away with something, but nobody went away satisfied, that was a good settlement. It is my view that HR 975 is that sort of good settlement at this point in time.

The Handgun Control Federation of Ohio, with members from throughout this state, has long championed the middle ground on the issue of handgun control. We favor sensible restrictions on handgun access, opposing equally those who support a complete ban on handguns, and those who would eliminate all restrictions on handgun ownership.

We believe that the unregulated availability of handguns poses an unacceptable threat to society. Both the Ohio legislature and the U.S. Congress determined long ago that certain people were simply too big a risk - that they simply

can not be allowed to own handguns. Those people include convicted felons, those who have been judged mentally incompetent, and drug addicts.

Few would argue that these restrictions are unreasonable. Yet in most jurisdictions, there is virtually no enforcement of these eminently sensible prohibitions.

Are the police falling down on the job? Absolutely not! As you well know, the major police organizations have rallied in support of this legislation because it will provide them with more of what they need to be <u>able</u> to stop crime and enforce handgun laws.

Are gun shop owners selling guns to persons known to them to be felons? There's no substantial evidence of that.

Why then is there no enforcement of these existing requirements? Because the only enforcement legislation which has ever been adopted deals with the problem in an after the fact way.

A convicted felon who wishes to buy a handgun today, in any jurisdiction governed only by federal law, is required to fill out a form indicating that he or she is not a felon. That's the only requirement. I think that it will come as no surprise to anyone that felon's have indicated a willingness to lie on that form.

I would ask the members of this subcommittee to ask themselves, and their colleagues in the House a few simple questions:

> Are we satisfied to leave it up to convicted felons to tell us whether or not they have a record?
>
> Do we trust those who have been adjudged mentally incompetent to reveal that fact when they go into a gun shop to buy a handgun?
>
> Do the American people <u>know</u> that there is no background check on people who buy handguns?

I would suggest that the answer to each of these questions is "No."

The American people would, I think, be shocked to learn that under federal law, convicted rapists and murderers need only claim that they are free from restrictions on handgun ownership. If they are willing to risk the penalties for falsifying a federal form should they somehow be caught, nothing will stop them from going into any store that sells handguns and picking up one or two.

Laws prohibiting certain classes of people from owning handguns are virtually worthless if there is no meaningful way to enforce them. In order to enforce these restrictions, those selling handguns need some way of knowing whether the person trying to buy a handgun from them is prohibited by law from having one.

Thanks to the efforts of Congressman Feighan, a member of the Board of the Handgun Control Federation of Ohio, and Senator Metzenbaum -- two legislators of which Ohioans can be genuinely proud -- there is hope that there may be,

nationwide, a system which better enforces the existing prohibitions on handgun ownership. The legislation which this subcommittee is considering takes one more step in the direction of keeping guns out of the hands of felons, the mentally incompetent, and drug addicts.

And HR 975 does more than help with the enforcement of existing prohibitions on handgun ownership. By virtue of its mandatory waiting period provision, Congressman Feighan's bill would eliminate an undeterminable number of incidents in which people commit acts in a fit of passion which they regret for the rest of their lives.

Dr. Harold Tatar, a member of HCF's Board has written an article regarding the handgun as something akin to a "a serious pathogen." For those as unschooled in medical terminology as I was before reading the article, a pathogen is a virus or disease which may lead to death. In his article, he makes a compelling case for the proposition that handguns allegedly purchased for self-protection, are almost never used that way. Instead, statistics show that those handguns are regularly used to commit crimes or suicide. Given this kind of

research finding, why shouldn't there be a cooling off period for those who wish to buy handguns?

I view the waiting period issue as a trade-off between lives and convenience. While there may be some inconvenience in having to wait a week to get a new gun, isn't it worth it if that requirement saves lives, preventing tragic murders and impulsive suicides?

HR 975 provides that life-saving cooling off period while simultaneously giving law enforcement authorities some opportunity to keep handguns away from those prohibited from having them. If that sounds like a ringing endorsement of HR 975, it is -- at least as that "good settlement" I mentioned at the beginning of my remarks, that settlement from which everybody walks away with something, but nobody walks away satisfied?

To be frank, I do not believe, and I feel confident that the Board of the Handgun Control Federation of Ohio does not believe, that this legislation goes far enough. We have long favored a comprehensive system of licensing and registration. It is HCF's view that such a system is the only

way to fully enforce the prohibitions on handgun ownership which we all agree to be sensible.

I'm not satisfied with HR 975, but I'm for it. I can only wish that groups opposing this legislation will also move towards this middle ground position which will save lives without adopting the comprehensive scheme of licensing and registration which most handgun control advocates would support.

House Speaker "Tip" O'Neill used to have a sign on his desk which read, "Politics is the Art of Compromise." Without in any way jeopardizing the legitimate interests of responsible handgun owners, this legislation provides law enforcement authorities an opportunity to conduct a background check on prospective handgun purchasers. In addition, its cooling off period will reduce the number of senseless tragedies which result from spur-of-the-moment decisions to purchase deadly handguns. It is a reasonable compromise.

I should also note that the HCF Board is of the view that certain mechanical and technical changes would be advisable prior to the adoption of HR 975. Barring Coughlin, a

fellow member of the Board, and a man with an extraordinary wealth of knowledge on the subject of handgun laws, has prepared testimony on that subject. In the event that time does not permit him to testify today, I would ask that Chair's permission that his prepared remarks follow mine in the record of these proceedings.

Mr. Chairman, a statewide poll taken in Ohio not long ago indicated that 80% of all Ohioans favor handgun registration and over 90% favor the imposition of a waiting period. Congressman Feighan and Senator Metzenbaum are to be congratulated for taking the courageous leadership position on this issue which they have. It is my sincere hope that national waiting period legislation, which makes possible a background check on prospective handgun owners, will be adopted by this Congress. It will, I believe, result in our mutual goal of reducing the level of carnage caused by handguns in America today.

Thank you, Mr. Chairman, for providing me the opportunity to testify today.

Mr. Clough, I was interested in the Gun Safety Institute's survey and particularly the demographic study which indicated that the age group from 18 to 29 years of age, in particular, overwhelmingly favored license of handguns.

I find that an interesting figure.

Mr. CLOUGH. We were surprised.

Mr. HUGHES. I would have thought that the 65 and older would have.

Mr. CLOUGH. We were surprised by that, too, Congressman.

Mr. HUGHES. I would have felt more strongly than they did.

Mr. CLOUGH. The poll was objective and we had to believe the figures, even though they surprised us.

Mr. HUGHES. In your poll, how many samples did you take?

Mr. CLOUGH. I think there were 800.

Mr. HUGHES. Eight hundred. So, it should have been statistically fairly accurate.

Mr. CLOUGH. It was done by a very competent polling organization at the University of Cincinnati.

Mr. HUGHES. Mr. Coughlin, I understand your concern about preemption and you make some very, very important points, and whatever is done, we certainly should look at that issue because we would not want to inadvertently create confusion or in any way damage legislation that might be more liberal or more conservative than the Federal legislation.

Mr. COUGHLIN. I appreciate your saying so. We would be glad to provide all the help we can working with your drafting people to try to solve the problems that we see here, and I would be prepared to come to Washington for that purpose, and I know that a number of others here would also.

It is not an easy drafting job. It is a very complicated subject when you get into it.

Mr. HUGHES. It raises some very interesting concerns, and we are indebted to you for bringing to our attention your sensitivities to that issue.

Thank you.

Mr. COUGHLIN. We appreciate it.

Mr. HUGHES. Mr. Johnston, you are a brave man. I think you are the only one here to testify today in opposition to the legislation, and I just would like to do something for you. I would like to share with you some of the results of the Rossi poll that you testified to today because some of the figures you suggest are not in accord with some of the figures I have seen, and we will be happy to share with you what information we have on the Wright and Rossi poll.

Mr. JOHNSTON. I, too, have a copy en route to me.

Mr. HUGHES. You do have a copy?

Mr. JOHNSTON. En route to me.

Mr. HUGHES. En route to you.

Mr. JOHNSTON. Yes, sir.

Mr. HUGHES. I think you will find that some of your figures are not quite accurate. But, in any event, we understand your point, and you have made it well, and we appreciate that.

Let me ask you one question. As you know, when an individual goes in to apply for a handgun, they have to fill out a form for BATF, and that form is just filed, it is just kept in the dealer's file.

How would you feel about making that information available to the law enforcement community? Has——

Mr. JOHNSTON. Form 4473.

Mr. HUGHES. Yes, Form 4473.

Mr. JOHNSTON. As a routine matter?

Mr. HUGHES. Yes. How would you feel about making——

Mr. JOHNSTON. For what purpose?

Mr. HUGHES. So that the law enforcement community would know who just purchased the handgun.

Mr. JOHNSTON. Again, for what purpose?

Mr. HUGHES. To determine whether or not they are an eligible person.

Mr. JOHNSTON. OK.

Mr. HUGHES. For instance, in my community, I know some people just because I live in the community. It is rather small. They should not own a handgun either because they were in Ankora for a few years, which is our mental institution, or they had felony records, and in smaller communities, it would not take long for people to know if, in fact, they are a disqualified person.

Mr. JOHNSTON. I am not trying to imply that a waiting period law of some sort might not save a few lives. What I am implying is that if we would really want a law with teeth, a law that would do some good, it should be directed at the criminal intent.

Mr. HUGHES. We do that. It is the law not to steal a gun or steal anything.

Mr. JOHNSTON. Oh, it is not a Federal law. You want a national law on a national scale, you are moving H.R. 975——

Mr. HUGHES. Every State in the country has a law that makes it a violation of the law to steal a gun. That is a larceny, as you know.

Mr. JOHNSTON. Correct.

Mr. HUGHES. If you burglarize a house and take a weapon, that is a burglary. If you rob somebody and take it from their person, that is a robbery. All States have laws. States prosecute street crime. The Federal Government does not.

Mr. JOHNSTON. Well, you are advocating a national waiting period. I say if you want to advocate a national law, advocate a national law against criminal intent. I feel that by turning these convicted criminals, people who have demonstrated clearly that they cannot function in the society except in a role of a predator, by turning them back on the street time after time after time, we are literally putting people at their mercy.

Mr. HUGHES. I understand, but my question, and I think you have answered it, is suppose instead of filing this, you know, in the drawer as dealers do, we make that available to the police officers, the police officials, the chief of police of the community, population 10,000, and he can see, oh, 1040 Lotus Lane, there is no 1040 Lotus Lane, or it is John Jones, who is just released from Ankora State Hospital, why not make that information available to the police? What are the public policy reasons not to do that?

Mr. JOHNSTON. Well, that information is taken in conjunction with more specific instructions on how the police are to process this information and on what basis they refuse or deny or OK a permit.

Mr. HUGHES. It has nothing to do with that. I—back up a little bit.

Mr. JOHNSTON. All right.

Mr. HUGHES. At the Federal level, BATF, the Bureau of Alcohol, Tobacco and Firearms, requires this form to be completed. BATF Form 4473 asks for the transferee's name, address and asks them questions about mental history, criminal involvement, convictions, and if they are alien illegally in the United States.

Instead of just putting that in the drawer where we use it from time to time when we are trying to effect a trace where a weapon has been used in the commission of a crime, which is, you know, when anybody looks at this, or if some BATF inspector is in there looking at the records to see whether they are being kept, they might check them, but other than that, this form is not made available to the police in that community.

Mr. JOHNSTON. Correct.

Mr. HUGHES. What I am saying is, would you have any problem with our making this available to the police in the community so they could see who it was that just bought a weapon?

Mr. JOHNSTON. What provision would be made for storing that material? Is it going to be stored at the police department?

Mr. HUGHES. Well, we require that after 90 days, it is destroyed, all that material is destroyed. It just puts the police on notice as to who bought a weapon.

Mr. JOHNSTON. I would have to study your exact provisions in such a bill, but I can probably live with that.

Mr. HUGHES. Would you concede that that might save some lives?

Mr. JOHNSTON. It might save a few lives.

Mr. HUGHES. And is that——

Mr. JOHNSTON. Not as many as the laws I propose.

Mr. HUGHES [continuing]. And is that not worth the effort then if you save some lives? If you save one life, is that not worth the effort?

Mr. JOHNSTON. Not when you can pass a law that will save many lives. That is my whole point. This law is like putting or treating a cancer with a band-aid.

Mr. HUGHES. I understand. But you agree that you could save some lives?

Mr. JOHNSTON. Possibly.

Mr. HUGHES. Yes.

Mr. COUGHLIN. Mr. Chairman?

Mr. HUGHES. Yes, sir.

Mr. COUGHLIN. Could I make one comment? This gentleman is from Shaker Heights. He buys a handgun in Shaker Heights, that information is on file with the police and not temporarily, permanently. I do not think——

Mr. HUGHES. Under Ohio law?

Mr. COUGHLIN. No. Under Shaker Heights.

Mr. HUGHES. Shaker Heights law. Does that present any problems to your citizenry in Shaker Heights?

Mr. JOHNSTON. No.

Mr. HUGHES. So, obviously, in Shaker Heights, they must have felt there was some compelling public policy reasons why that in-

formation should be made available to the law enforcement community.

Mr. JOHNSTON. Obviously, they did.

Mr. HUGHES. But you have noticed no inconvenience to law-abiding citizens in Shaker Heights as a result of the law?

Mr. JOHNSTON. Of our particular law? No. Minor inconveniences only.

Mr. HUGHES. Are you aware of any situations where when the form was shared with the law enforcement community in Shaker Heights, that you were alerted to the fact that somebody that should not have a weapon had bought a weapon?

Mr. JOHNSTON. We do not have copies of the Form 4473.

Mr. HUGHES. How about the information on the sale?

Mr. JOHNSTON. Right. We have a mandatory requirement to register oneself as a handgun owner, listing the handguns he owns.

Mr. HUGHES. Has that been successful in Shaker Heights?

Mr. JOHNSTON. It has not divulged, to my knowledge, any criminals or other people under disability that should not have a handgun, no.

Mr. HUGHES. Do you have direct contact with that? Would you be able to say that or are you just——

Mr. JOHNSTON. I do not man the records.

Mr. HUGHES. So, you would not know.

Mr. JOHNSTON. No. If it has, it has been minimal.

Mr. HUGHES. I see. OK.

The gentleman from Ohio.

Mr. FEIGHAN. Thank you, Mr. Chairman.

Mr. Coughlin, thank you for your testimony and for the obvious amount of hard work that you put into it. I share the concerns that you raised and that the chairman mentioned on preemption.

I noticed that in your written testimony, you had recommended that we simply not amend Section 927, but I do not think that that in itself would remove the potential conflicts that you referred to.

Mr. COUGHLIN. You might want to go further than that.

Mr. FEIGHAN. Yes. So, I would like, if we could, because as I understand your testimony, both written and orally presented today, you support the intent of the legislation.

Mr. COUGHLIN. Yes.

Mr. FEIGHAN. So, we would like to work with you to make sure that that preemption issue was one that we have very closely nailed down and not stumbling into a situation where we are eliminating other vital laws that are already on the books and making it more difficult for local communities.

Mr. Johnston, I have some concerns with your testimony. In order to value the testimony, I have to assume that the data that is presented is accurate, is based on information and facts that you have, and if I find some dimensions that are glaringly inaccurate, it makes me question the testimony generally.

One of the statements you have made was that Congressman Feighan's goal is the complete elimination of handguns. Could you tell us what the basis for that observation is? What public statements or what legislation sponsored by Congressman Feighan has led you to that factual conclusion?

Mr. JOHNSTON. That is my personal conjecture, Congressman, and because of your——

Mr. FEIGHAN. You have no evidence to substantiate that observation.

Mr. JOHNSTON. Only your close alliance with the Handgun Control, Incorporated, whose exact goal that is.

Mr. FEIGHAN. Can you point to a statement, a policy statement of that individual, either written—or that organization, either written or as enunciated by a member of that organization, that that is their goal?

Mr. JOHNSTON. Not right now, I cannot, no.

Mr. FEIGHAN. Have you ever seen a statement to that effect?

Mr. JOHNSTON. I have read excerpts and such and heard people who are members of that organization expound on that exact belief, yes.

Mr. FEIGHAN. But my question is, have you ever seen a written statement or a representation made by a member of that organization that that is that organization's goal?

Mr. JOHNSTON. No.

Mr. FEIGHAN. You have not.

Mr. JOHNSTON. I have not attended any meetings of that organization.

Mr. FEIGHAN. Well, I do not understand how you can come to the conclusion that that is their goal and you have never heard that statement made, that that is the goal of that organization.

Mr. JOHNSTON. I have read quotes by that organization. Are you telling me that is not their goal?

Mr. FEIGHAN. Yes. I am telling you as a board member that that is not their goal.

Mr. JOHNSTON. All right. I stand corrected.

Mr. FEIGHAN. Do you stand corrected of your interpretation of my goal?

Mr. JOHNSTON. Yes, in that case, I do.

Mr. FEIGHAN. Yes. I appreciate that.

Let me understand, if I can, as well, your view of waiting periods and certain restrictions on the purchases of certain guns.

Would you support a restriction in the sense of a waiting period for the purchase of a machine gun?

Mr. JOHNSTON. There is a waiting period for the purchase of a machine gun, as you well know. A requirement of a thorough Federal check, a background check, requiring a permit signed by the chief of police or head law enforcement officer in one's area of residence.

Mr. FEIGHAN. As such, suppose that results in a waiting period of sorts, but, as such, there is no specific waiting period, would you support a waiting period for a 7-day waiting period or a three-day waiting period?

Mr. JOHNSTON. For the purchase of a machine gun?

Mr. FEIGHAN. For the purchase of a machine gun.

Mr. JOHNSTON. I have no—since the waiting period is now approximately 6 months, I would have no problem with the 7-day waiting period, no.

Mr. FEIGHAN. Can you tell us what policy distinctions that you make between supporting a waiting period for the purchase of a

machine gun but not supporting a waiting period for the purchase of a handgun?

Mr. JOHNSTON. As your bill is written, I cannot accept it, and as I said before, in my opinion, it is like treating cancer with a band-aid. In the case of an automatic firearm, such as a machine gun, that requires a thorough background check by the Federal Government prior to issuing an application in conjunction with a $200 Federal tax, and the Bureau of Alcohol, Tobacco and Firearms will tell you that there has never been, to their knowledge, a registered machine gun used in a crime. A registered machine gun is totally apart from an illegal unregistered machine gun.

Mr. FEIGHAN. Right.

Mr. JOHNSTON. I think that is where people are often confused.

Mr. FEIGHAN. But I am just not trying to entrap you with anything. I am simply trying to understand why do you support a waiting period for the purchase of a machine gun but you would not support a waiting period for the purchase of a handgun. If you could describe for us what your view is about the danger of a machine gun that does not apply then to a handgun?

Mr. JOHNSTON. Well, I said I could accept that based on the comparison. There is already approximately a 6-month waiting period.

Mr. FEIGHAN. Yes, and why is it, I am asking, you support that wait?

Mr. JOHNSTON. I am not saying that I do support it. I do not necessarily support it. I happen to own a machine gun, and once a person legally owns a machine gun, there is no reason why he should have to go through that exact 6-month duplication again and again and again.

Mr. FEIGHAN. Right. I am sorry. I misunderstood. I thought you had said, Mr. Johnston, that you do support a waiting period——

Mr. JOHNSTON. I could live with it.

Mr. FEIGHAN [continuing]. For a machine gun.

Mr. JOHNSTON. I could live with it.

Mr. FEIGHAN. You could live with it.

Mr. JOHNSTON. Yes, sure.

Mr. FEIGHAN. You cannot live with a waiting period for a handgun.

Mr. JOHNSTON. I could live with it, Mr. Feighan, under different circumstances, more specific provisions in the laws, some of which Mr. Coughlin alluded to. I think there are too many loopholes and open-ends in this law. Such as what is the penalty for the police department not destroying these records, what is to say that the police chief cannot arbitrarily deny permits to anyone that he so chooses.

Mr. FEIGHAN. If we could address those problems, would you support the 7-day waiting period?

Mr. JOHNSTON. Perhaps, yes. Perhaps.

Mr. FEIGHAN. I think that we certainly want to ensure that the directive that we give that the documents not be maintained more than 60 days is one that is enforced and one that is lived up to by local law enforcement agencies. I have every confidence that it would be.

Mr. JOHNSTON. I do not.

Mr. FEIGHAN. No. I understand that.

Thank you for your testimony. I appreciate it.

Mr. JOHNSTON. You are welcome.

Mr. FEIGHAN. I particularly appreciate the corrected nature of your testimony, and I thank the other panelists for their testimony. I think it has been extremely helpful.

Mr. HUGHES. I just have one other observation to make. I do not think it should be an either or proposition. I agree with your suggestion that we should have effective laws and mete out punishment commensurate with the offense, and I might say that this subcommittee has developed a number of anti-crime bills in the last few years that have increased penalties significantly at the Federal law. You know, we do not prosecute, as you well know, street crime. Ninety-five percent of that is done at the State or local level, but we have increased sentences, particularly for drug-related offenses, very substantially over the last few years, and I was shocked to learn of the fact that the perpetrator of the homicide against Erwin Biederman was paroled after 2 years, after having been convicted of a homicide, and within 1 week or 10 days after he was released from prison, after being released on parole, for having committed a previous homicide, kills the second victim.

It is just horrendous, and you can understand why people are so cynical about criminal the justice system when things like that occur. So, you make a very legitimate point relative to the need to have stiffer penalties and increase the certainty that people are going to get caught and when they are caught, they are going to go to jail.

The other part of it also is to try to provide law enforcement with tools to try to prevent tragedies. That is what this legislation is all about. This is to provide law enforcement with an additional tool, to try to make sure that the wrong people do not acquire weapons. It does not mean that they will not because they are ingenious, but if you can save, you know, even one life by requiring perhaps some waiting period, that is something we should seriously look at.

In any event, it has been a good hearing, and you have been an excellent panel. You have provided us with some good suggestions and we appreciate your taking time from your own busy schedules to be with us.

Thank you very much.

That concludes the hearing for today. Other witnesses have requested the right to submit statements and the hearing record will remain open for 10 days so that those who wanted to testify, but did not testify, or who did not hear of the hearing or did not get themselves on the witness list. We invite you to submit statements. Staff will provide you with an address where you can send those statements, and we will include them in the record.

Thank you very much, Ed. It has been a very productive session of the Subcommittee on Crime. We thank you for inviting us to Cleveland.

Mr. FEIGHAN. Thank you. Thank you, Mr. Chairman, and I want to state again, as I did at the opening, how grateful we are to you and members of the staff for taking the time to come to Cleveland to hear the panelists we have today, and I think the hearing was well worth our while.

Thank you.

Mr. HUGHES. Thank you.

That concludes the hearing. The subcommittee stands adjourned.

[Whereupon, at 1:45 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

WAITING PERIOD BEFORE THE SALE, DELIVERY, OR TRANSFER OF A HANDGUN

WEDNESDAY, FEBRUARY 24, 1988

House of Representatives,
Subcommittee on Crime,
Committee on the Judiciary,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Mazzoli, Crockett, Feighan, Lawrence Smith, McCollum, Lamar Smith, and Gekas.

Staff present: Hayden W. Gregory, counsel; Eric E. Sterling, assistant counsel; Paul J. McNulty, minority associate counsel; and Phyllis N. Henderson, clerical staff.

Mr. Hughes. The Subcommittee on Crime will come to order.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography, or by other similar methods. In accordance with Committee Rule 5(a), permission will be granted unless there is an objection.

Is there objection?

[No response.]

Mr. Hughes. Hearing none, permission is granted.

This morning the Subcommittee on Crime is continuing its hearings on H.R. 975 and H.R. 155. These bills would amend Federal law to establish a waiting period before the purchase of a handgun can be completed.

It is generally argued that a waiting period would do two things: First, it provides a "cooling-off" period. All too tragically there are instances in which angry or desperate persons buy a handgun and uses it immediately after they buy it.

The stock market crash of last Fall resulted in a notorious case: A Florida investor, who lost millions of dollars, purchased a handgun which he then took to the office of his stock broker. He shot and killed the stock broker and then killed himself. A waiting period just might have allowed the distraught investor to calm down, thus saving two lives. A waiting period has the potential to be, in effect, a lifesaver.

Just as importantly, a waiting period can keep firearms out of the hands of convicted felons more effectively than the current honor system.

In the current system a person simply signs a Treasury Department form stating that he or she is not disqualified from receiving a firearm.

In 1981, the Attorney General's Task Force on Violent Crime emphatically recommended a national waiting period for handgun purchases. They observed that convicted felons, illegal aliens, dishonorably discharged servicemen, adjudicated mental incompetents, drug addicts, and fugitives from justice are not the persons that society should rely on to comply with an honor system when buying firearms.

How often have you heard the argument that criminals don't buy their guns at gun shops?

A major study of the firearms acquisition patterns of convicted felons, financed by the National Institute of Justice—the Wright-Rossi study, if you will—generated an enormous body of data from its sample of 1800 adult male State felons.

We will hear a great deal of debate about that study and its implications today. One fact of the study is that 65 percent of the purchases of handguns by felons were from family and friends and lawful outlets that sold guns. Substantially more handguns are purchased from legitimate sources than are purchased on the black market.

This does not men that Wright and Rossi did not identify other substantial sources of handguns from criminals. Wright and Rossi argue forcefully that the implication of the existence of a black market in firearms "is clearly not that we should give up on our efforts to interdict criminal acquisition of handguns at the point of retail sale. . . . At minimum, the acquisition of a firearm by a felon should be somewhat more complicated than just walking into a gun shop and buying one."

Creating a waiting period to reduce the current ease of unqualified persons from acquiring a handgun from a dealer will not be a panacea. We will need to work on every method to keep guns out of the hands of criminals, including more forcefully attacking the black market in guns.

Aside from debating the implications we can draw from the self-reports of the criminals interviewed by Wright and Rossi, we must keep in mind the positive results that have been achieved with waiting period laws where they have been enacted throughout the country.

The studies of the States and cities which have handgun waiting periods have demonstrated conclusively, in my judgment, that thousands of felons have been detected trying to buy firearms at licensed gun dealers. This demonstrates that waiting period legislation accomplishes one of its major purposes—keeping handguns out of the hands of criminals.

Firearm violence is a plague on our society. Death by firearms is the 12th leading cause of death in this country. For several sectors of the population, it is the number one cause of death.

When we consider the billion-dollar national effort to find the cause of AIDS and to prevent its spread, let us remember that in the 20 years since the 1968 Gun Control Act was enacted, close to a half million Americans have been killed with handguns. Between 15,000 and 20,000 Americans are killed by a handgun every year—

that number is roughly the total number of Americans who have been killed by AIDS since the epidemic began. Reducing firearms violence is a critical public health measure.

We have many, many excellent witnesses this morning who have extensively prepared their testimony for the subcommittee. Because we have so many panels today and so many witnesses to hear from, the subcommittee has determined that they are going to comply strictly with the 5-minute rule.

We ask you to summarize your statement. Each of you were asked to prepare an executive summary and we are going to insist upon that today. That gives us time to get into the question period. We have all read your statements, so we don't need to hear them read again. We hope that you just get to the nub of your testimony.

I am sure that with the testimony today we will be able, hopefully, to act on legislation that will serve the public interest.

The Chair recognizes at this time the distinguished ranking Republican, Mr. McCollum.

Mr. McCollum. Thank you, Mr. Chairman.

I am looking forward to these hearings, as I am all of them on major issues of this nature.

I don't know anyone in America who wants to see a felon purchasing a gun. I don't know anybody who wants to see somebody committing a crime repeatedly because he has easy access to a revolver or any other kind of weapon.

But I am not at all convinced that the kind of legislation proposed in these two bills is appropriate for us to enact. First of all, it occurs to me that some day, in the near future, we will be in a position when there will be the access to Federal registry of convicted criminals, particularly convicted felons, in the way that local gun dealers and law enforcement officials can check on that with the same ease that today we can check on the Visa card numbers to see if somebody has a bad or a good card, by simply plugging the card in or making a quick telephone call, or whatever—immediately on the spot and at the time.

The idea of waiting to acquire a weapon, a gun, is not something that in the history of this Nation has been very acceptable to the American people. It goes back to the basic constitutional principles of this government of ours that says every American has the right to bear arms.

I am not saying that under all circumstances I am going to oppose every proposal for a waiting period—I am going to listen to what is being said today. But I have another concern beyond the question of technology and beyond the practicality because, for one thing, I don't know that we have a system even for 7 days, let alone shorter periods of time, where somebody today could, as a practical matter, make a check on who is a felon and who is not when somebody is buying a gun.

But I am also equally concerned about the States' rights issue in this case. We have had a number of State legislatures in recent history that have overwhelmingly rejected the concept of a waiting period. It is at the State level, it seems to me, that the very basic government is. The government that is closest to the people is that which I think rests more soundly upon what the people think. And in this case, this issue of crime—who has the access to weapons,

who has the right to bear arms—this is as more than anything else a democratic question for the American public to decide.

Is it correct for the Federal Government to decide this issue? Or is this an issue which is best left to the States? Right now I am coming down on the side of leaving it to the States. That's where I have been and that's where I expect I will remain, but again, let's hear what the hearings and the witnesses have to say. I look forward to hearing from them.

Thank you, Mr. Chairman.

Mr. HUGHES. Thank you, Mr. McCollum.

The gentleman from Ohio is a prime sponsor of at least one of the bills.

Does the gentleman from Ohio have any opening statement?

Mr. FEIGHAN. Just briefly, if I might, Mr. Chairman, I would ask unanimous consent to have my full opening statement included in the record.

Mr. HUGHES. Without objection, so ordered.

Mr. FEIGHAN. Thank you.

Mr. Chairman, I want to thank you for scheduling this hearing today and for the very impressive lineup of witnesses that we have.

Few in this Congress have been as courageous as yourself, Mr. Chairman, in addressing the problems in this Nation of gun ownership, lack of adequate gun safety and gun control.

I think the line of witnesses that we have today is extremely impressive. I am particularly pleased to see that Sarah Brady is here today. She has dedicated herself—and tirelessly—on behalf of sensible gun legislation.

And that Dewey Stokes, who is the President of the Fraternal Order of Police (and I might also note, a native son of Ohio) is here today—both of whom I think bring powerful testimony to the very sensible nature of a national waiting period proposal.

I am also pleased to see that finally we will have testimony from the National Rifle Association—an organization that not too long ago eloquently endorsed a national waiting period in its policy statement, stating, "a waiting period could help in reducing crimes of passion and preventing people with criminal records or dangerous mental illness from acquiring guns."

I certainly agreed with that position several years ago and would urge them to continue their endorsement of it.

I think waiting periods have demonstrated their effectiveness already in a number of jurisdictions across the country, particularly in California, and in the home State of the chairman, New Jersey, which has had a combined waiting period and background check screening process that has been particularly effective.

But I think we all recognize that real effectiveness can only result from having a national waiting period—that can cross jurisdictions and ensure that someone who would otherwise be prohibited, because of a criminal background or a mental incompetency, from purchasing a gun cannot just simply move quickly to another jurisdiction.

Mr. FEIGHAN. Again, Mr. Chairman, thank you very much, not just for the hearing today but also for the attention that you have directed to this issue—through the Congress—for the past several years.

Thank you very much.

[The statement of Mr. Feighan follows:]

STATEMENT OF HON. EDWARD F. FEIGHAN, A UNITED STATES REPRESENTATIVE FROM THE STATE OF OHIO

I would like to thank all of our witnesses for taking time out of their busy schedules to appear here today, especially Sarah Brady, for her tireless work on behalf of "Waiting Period" legislation, and Dewey Stokes of the Fraternal Order of Police and Columbus, OH. Your presence at this hearing is powerful testimony to the sensible nature of the waiting period proposal.

I am especially pleased that the NRA was able to testify today. Perhaps it can explain the dangerously deceptive full page ads against my legislation that have appeared in newspapers across the country. Better yet, perhaps it can explain the recent NRA "flip-flop" on the waiting period issue. Now the NRA is against a waiting period, but it clearly endorsed a waiting period in the past. As its own publication so eloquently concluded, "a waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness (sic) from acquiring guns."

The NRA was right then; it's wrong now.

H.R. 975, which both the chairman and I are anxious to send to the Floor, is a simple, effective and reasonable way to stop crime. As the police, public officials and private citizens testifying today will show, a 7-day waiting period can mean the difference between life and death.

Indeed, in my own home State of Ohio, enacting this legislation has become especially urgent. This is because the NRA has recently crammed a bill down the throat of the Ohio State Senate that would prevent local governments from enacting their own waiting periods. That bill is an insult to the law enforcement community, the people of Ohio, and to all American citizens who want to do more to fight crime.

State and localities that have experimented with handgun waiting periods have made an important discovery: waiting periods work. California screened out more than 1,500 ineligible gun applicants last year. New Jersey's combined waiting period and background check screens out an average of 500 ineligible applicants annually. Several Cleveland area municipalities also have been successful at preventing guns from getting into the wrong hands.

But until we have a national waiting period, we won't make real inroads against handgun violence. Determined criminals will still be able to cross State lines and buy handguns almost as easily as they buy groceries.

Mr. Chairman, we can't afford to let this senseless killing continue. Each and every day more Americans become handgun victims. A waiting period won't stop all those tragedies, but it will help save lives.

Mr. HUGHES. I thank the gentleman.

While we do have an impressive array of witnesses today—and I am sure that they will add substantially to the record—I really regret to say that we are not going to have testimony from the Department of Justice or from the Department of Treasury.

Can you imagine, the two agencies that deal with the crime problem, and the agency that deals with trafficking in guns and has the responsibility for overseeing our gun laws of this country, have declined to testify?

Now, can any member of this subcommittee suggest to me why they wouldn't want to come in and testify?

I would be very happy to hear it at this point. Nobody wants to defend their declination?

Mr. LAWRENCE SMITH. Mr. Chairman, what an untoward question.

[Laughter.]

Mr. HUGHES. I wonder if our first panel this morning will come forward. Mayor Holland, the Mayor of Trenton, New Jersey, and Vice President of the United States Conference of Mayors, is the first member of the panel.

Our second witness is Colonel Clinton Pagano, the Superintendent of the New Jersey State Police. Colonel Pagano has served with the State Police since 1952. He was appointed Superintendent in 1975 by Governor Byrne and reappointed by Governor Kean in 1982.

Colonel Pagano has played a major role in modernizing and strengthening many aspects of the New Jersey State Police and we are very proud of our Superintendent of Police.

Colonel Pagano, will you come forward?

Our third witness is George Napper, the Commissioner of the Department of Public Safety of Atlanta, Georgia, a position he has held since 1982.

Commissioner Napper earned a doctorate in criminology from the University of California in 1970. He served on the faculty of Spelman College and the Emory University School of Medicine. He is a past president of the National Organization of Black Law Enforcement Executives. Currently he is Secretary of the Police Executive Research Forum and is testifying on its behalf.

Commissioner Napper, will you come forward at this point?

I understand Mayor Holland might be somewhat delayed so why don't we begin the testimony this morning with you, Colonel Pagano. Welcome. We appreciate your willingness to come to Washington to testify and, again, we hope that you can summarize your testimony.

TESTIMONY OF COLONEL CLINTON L. PAGANO, SUPERINTENDENT, NEW JERSEY STATE POLICE; GEORGE NAPPER, COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, ATLANTA, GA, SECRETARY, POLICE EXECUTIVE RESEARCH FORUM, ON BEHALF OF THE POLICE EXECUTIVE RESEARCH FORUM; AND HON. ARTHUR J. HOLLAND, MAYOR, TRENTON, NJ, VICE PRESIDENT OF THE UNITED STATES CONFERENCE OF MAYORS

Mr. PAGANO. Thank you very much, Mr. Chairman.

I appreciate the opportunity to come to Washington today really to summarize, if you will, the New Jersey experience as far as this kind of activity is concerned.

I did hear your statement and I heard the response from Mr. Smith and I can't tell you why Justice or Treasury are not here. But I can tell you very clearly that my agency and law enforcement in general relies heavily upon BATF day in and day out to do the kind of support work we need in the firearms area. So, although I can't come in in terms of defining your question, I can come in terms of support for that particular agency, which you know, not too long ago really was almost faced with extinction.

We appreciate the work done by BATF and couldn't work without them.

Mr. HUGHES. Colonel, I just want to interrupt you. I am not trying to minimize the work done by BATF. They do have direct responsibility, and they perform a very vital function. But I think it is disgraceful that we don't hear from the top law enforcement agencies in this country on what is granted to be a controversial issue.

There are a lot of the members of the subcommittee that would like it to go away. It is not going to go away

Mr. McCollum. Would the gentleman yield?

Mr. Hughes. I would be happy to yield.

Mr. McCollum. I know nothing whatsoever about why they won't testify. But you and I haven't talked about it—it is the first I heard of it this morning, and perhaps I should have heard of it earlier from staff. But it seems to me that we ought to do everything we can to renew that request. They should be here testifying. And if they are not here today we should set up a special hearing and have them here, Mr. Chairman. I would do everything in my power to urge them to do that.

Mr. Hughes. They have had ample time. They were invited in writing to testify and they have just decided to duck the issue and hope it will go away.

Colonel, good to have you.

Mr. Pagano. I am here today to support H.R. 975. I am here today, if you will, to describe the New Jersey experience. I am here today really to give you benefit of 35 years in law enforcement and I feel as though those years have in many, many instances shown the need for this kind of a waiting period.

The average death that we see is a death that occurs as a result of heightened emotions. The New Jersey system has a built-in component—although it doesn't specifically call for a waiting period, it does, as a result of the investigation, cause a waiting period to occur.

We know from experience that if you can deny temporarily—at least for a shortened period—access to a firearm to a person who is at the height of emotion, you will almost in every instance give reason time to come back into play, and you can—although you will never statistically show it—you will give reason time to come back into play and you will save lives, you will save trauma.

The New Jersey gun control law requires that people with records of felony, people who are known drug abusers, known alcohol abusers, or other persons whose possession of a firearm is not in the public welfare, that they be prohibited.

The system as a system works well, although from time to time we will admit that we do have problems that come as a result of the system and the breakdown of the system and a lack of systemic capability. But in most cases we meet the time lines required in our particular statute.

I think probably most significant of the presentation that I have offered at the table today are the statistics that we have compiled since 1966 in our State. They show that the State law consistently has kept crime below the national level—specifically in the area of murder where in a national situation, 59 percent of the murders in this country involve weapons. In New Jersey for the past year, in 397 murder cases, only 38 percent involve firearms.

This has been a figure that has been consistent since 1967. In the area of aggravated assault and now in the area of armed robbery, we are consistently below the national average as far as the use of weapons is concerned. I think that is clearly reflected in the written statement that I have put to the table this morning.

I think this is probably the heart of the success of the New Jersey system.

In New Jersey, anyone who wants to acquire a firearm, can acquire a firearm, so long as that person is a legitimate citizen. And as Mr. McCollum said, the decisions are generally made down on the lower level by law enforcement types who know that particular individual. The chief, especially in smaller towns, generally knows the individuals, and in many cases can expedite the movement of the application.

Knowing the person becomes very important as far as the issue of firearms is concerned. I think that that again is a strength of the New Jersey system.

In our State we have two levels of firearms acquisition—essentially the individual permit for the purchase of a handgun, any weapon under 26 inches in length, any weapon that is generally fired with one hand, and there is an individual purchase permit required. For longarms, shotguns and rifles, there is a one-time permit application and thereafter the person can, by using that firearms purchase identification card, purchase as many longarms as he wants simply by presenting the card.

I think that the guidelines that have been adopted by the courts, and by the local chiefs, and by the State Police essentially have permitted the quick movement of permits to carry handguns. And although we have a population in excess of eight million in New Jersey, there are still 38,000-odd citizens who have, for one reason or another, through the courts, been permitted to carry a firearm. That, again, speaks to the effectiveness of our law.

As to H.R. 975, I think the objective as we see it, although we can support it only by experience, is a worthwhile objective. And as has been pointed out here already, even though our major opponent, so to speak, in the area of gun control—the NRA—does agree that the objective of a waiting period should be examined closely, or words to that effect.

The important point that you make, Mr. Hughes, I think we can elaborate on somewhat—the issue of whether or not criminals will steal guns if they can't buy them; that myth has been exploded many times, both statistically and practically as far as we are concerned.

Mr. HUGHES. Can you conclude in about 30 seconds?

Mr. PAGANO. Surely.

We have had over a million applications for firearms ID. Thirty-four thousand were disapproved. Thirty-five percent of those disapprovals come as a result of people who have criminal records making application. And probably the most noteworthy case that we have ever completed was in a domestic terrorism case involving the group of people who killed one of our troopers. We pursued them and we checked every firearm that they ever purchased. In every case, they had purchased it after acquiring fictitious identification and going through otherwise legitimate channels to acquire the weapon.

I am available for questions and more specific data if you so choose.

Mr. HUGHES. Thank you very much.

[The statement of Mr. Pagano follows:]

COLONEL CLINTON L. PAGANO
SUPERINTENDENT, NEW JERSEY STATE POLICE

TESTIMONY ON THE EFFECTS OF FIREARMS REGULATIONS IN NEW JERSEY
BEFORE THE
HOUSE JUDICIARY SUBCOMMITTEE ON CRIME

FEBRUARY 24, 1988

I am here today to support H.R. 975.

On August 2, 1966, the State of New Jersey adopted a gun control law hailed as the best state law regulating the sale, purchase and possession of firearms in the nation. The main thrust of the New Jersey legislation is to prevent the purchase and use of weapons by persons, who, through an investigative process, have been determined to be unfit to possess them, i.e., persons convicted of criminal acts, mental incompetents, persons addicted to narcotics, and persons where the best interest of the public health, safety, and welfare would not be served.

The effectiveness of the present gun laws can be measured by the Uniform Crime Reporting statistics which are maintained by the Federal Bureau of Investigation. The latest statistics indicate that in New Jersey, firearms were used in 38.3% of the 397 murder cases, compared to the national average of 59%. In a second category, aggravated assaults, the national average with the use of firearms is 21.3% while in New Jersey the figure is 13.3%. The differential between the national and state percentages have been relatively constant since 1967. The foregoing offenses are the only ones where such statistics have been maintained since 1967. However, since 1975, a third category, robbery, has been added. The national average for robberies committed with a firearm is 34.3% and New Jersey's average is 27.6%, which has remained relatively constant with a low of 24.1% and a high of 32.9%.

New Jersey ranks 9th among the states in population and 46th in size and is situated between two of the nation's largest metropolitan areas. These factors are conducive to an area that should record a much larger crime rate than the national average. The favorable statistics are, undoubtedly, a direct result of the present State Firearms and Weapons Laws and, since 1983, the three year mandatory sentence for crimes committed with a firearm.

Any person in this State who desires to acquire a firearm must make application to the Chief of Police of a full-time police department in the municipality where he resides, or to the Superintendent of State Police in all other cases. Each applicant is required to be fingerprinted on the state and federal forms. The applicant fingerprint cards are forwarded to the State and the Federal Bureau of Investigation for comparison against criminal records. In addition to the FBI and SBI fingerprint record check, the authority, in receipt of the application, is required to conduct a thorough background investigation of each

applicant including interviewing the two references listed on the application, checking municipal and county records, and confirming the applicant's employment. A person not subject to any of the disabilities as set forth in the statutes qualifies for the Identification Card or Permit, or both.

A Firearms Purchaser Identification Card is valid until such time as the holder becomes subject to any of the disabilities outlined in the statutes. The card entitles the holder to purchase shotguns and rifles within the State providing a certification is completed for each and every transaction. The Permit to Purchase a Handgun is valid for a period of 90 days and may be renewed by the issuing authority for an additional 90 days. Only one handgun may be purchased through a permit. In situations where the holder of the Identification Card becomes subject to one of the disabilities, he is required to surrender the card within five days to the Superintendent of the State Police. Failure to do so is considered, under the New Jersey laws, as a Crime of the Fourth Degree which is punishable by a 3-5 year prison term or a $7,500.00 fine, or both. A person prohibited from possessing firearms is subject to imprisonment of 3-5 years for each conviction and/or fine of $7,500.00

In addition, persons desiring to engage in the business of buying and selling firearms are required to make application to the Superintendent of State Police. All applicants and their employees are thoroughly investigated by the Firearms Investigation Unit of the New Jersey State Police. The results of such investigation are transmitted to the Superior Court Judge of the County where the business is located for issuance or denial. By statute, Superior Court Judges are the issuing authority for such licenses. Dealers are required, by both state and federal law, to maintain an acquisition and disposition firearm ledger. Periodic inspections of the dealer's records, inventory, security system, etc. are made by the Firearms Investigation Unit. Regulations have been adopted by the State Police requiring dealers to install an approved security system for safeguarding firearms and ammunition at his business premise. This regulation is believed to be the first of its kind in the nation. Applicants who fail to meet this requirement are refused a license. These procedures have proven highly successful in deterring thefts of firearms and ammunition from gun dealers in the State. Currently, there are 953 retail firearms dealers and 43 manufacturers and wholesalers in this State.

In addition to the foregoing, the courts of this State have adopted guidelines limiting the issuance of permits to carry handguns in the State to only those persons who are specifically employed in security work and to such other limited personnel who can establish an urgent necessity for the carrying of guns, i.e., one whose life is in real danger, as evidenced by serious threats or earlier attacks. As a result of the strict policy adopted in this State, only 38,862 of a population exceeding 8 million have been issued a permit to carry firearms since 1966.

H.R. 975, as written, will have no affect on the present New Jersey Firearms and Weapons Statutes. However, I am in complete agreement with the principle and the most commendable objectives of this bill.

The objectives of this bill, as I see them are:

1. The time difference between the idea of a handgun purchase and the actual purchase of a handgun.

This difference is accomplished through the seven day waiting period. The waiting period for obvious reasons, such as a cooling off period, is a commendable objective. This same time period is built into the New Jersey law and has been since 1966.

2. The police background check of a transferee of a handgun. The objective is to keep handguns out of the hands of undesirables which is the main thrust of the New Jersey legislation. I believe that we all agree with this objective, perhaps even the NRA.

In New Jersey we do as complete a background check as possible, to the extent of interviewing reputable character references of the transferee. As a result of the 8 million plus citizens in New Jersey, 1,094,000 of which have submitted some form of firearm application, 34,119 were disapproved since 1966. Most of the denials, 35%, are a direct result of the applicant having falsified the application. The falsification, in the majority of cases, is in conjunction with giving false information as to whether the applicant has a criminal record. Having a criminal record has been the cause for denial in 29% of the applications. The New Jersey laws prevent any person with a criminal conviction, regardless of where the offense took place, from qualifying for a Permit or a Firearm Purchaser Identification Card. Twenty percent were denied because their possession of firearms would not be in the interest of the public health, safety, and welfare of the citizens of the State. Another 45% were denied for various reasons, including drug and alcohol abuse. These of course were persons who should not have had firearms under their control. As proof of the transferee's suitability to purchase or receive a handgun, the transferee is issued a Permit to Purchase a Handgun. The permit is presented to the transferor. New Jersey has been meeting this objective since 1966, and as far back as 1929, for transfers of handguns by a licensed dealer to a transferee. The New Jersey State Police maintains a central repository on all firearms registered in the State. Included in the repository are 923,754 gun registrations, names of 495,508 firearm owners, and 1,059,961 firearm applications. Information contained in the files serve as an effective investigative tool for law enforcement agencies and other elements of the Criminal Justice System.

3. The identification of the transferee through valid photographic identification.

Again, I am in complete agreement with this objective. It is an invaluable tool when tracing a firearm used in a crime to be able to identify the transferor. We in New Jersey take this a step further by identifying the transferee through fingerprints, well in

advance of his receiving a handgun. The transfer is then recorded. These, as I see them, are the prime objectives of this bill.

H.R. 975 will not affect New Jersey as a State, and since the State takes complete responsibility for firearm legislation, it will not affect county or municipal governments.

Mr. HUGHES. Commissioner Napper, welcome.

Mr. NAPPER. Thank you very much, Mr. Chairman, and members of the subcommittee.

I am pleased to have the opportunity to talk with you today on behalf of the members of the Police Executive Research Forum.

I am here to tell you that the Forum members do indeed support a waiting period for the purchase of handguns. As law enforcement executives from the Nation's largest jurisdictions, we serve over 30 percent of the country's population. We have long been dedicated to speaking out on issues concerning the safety of our officers and citizens, and we commend you for holding these important hearings.

Homicide by guns claims 9,000 people annually. And homicide continues to be the leading cause of death for American black men between the ages of 15 and 24. More than half of all homicides are committed with handguns.

As Commissioner of the Atlanta Department of Public Safety, these figures cause me particular concern. Atlanta, as you know, is a majority black city, with a black administration. Nationally, about 42 percent of all murder victims—men and women—are black, though blacks represent just 12 percent of the U.S. population, nearly 34 percent of all murder victims are black males, though they comprise only 5.6 percent of the general population. A black male faces a 1-in-12 lifetime chance of being murdered, compared to a white male whose odds are 1-in-131.

In Atlanta, handguns were responsible for 100 homicides in 1986 and 126 of the homicides in 1987. Atlanta police confiscated 1,600 weapons from perpetrators in 1985, 2,200 in 1986, and 2,968 in 1987. These are alarming numbers to me.

Our city has had a 15-day waiting period since 1980. This ordinance allows us to deny applications on grounds of criminal record or mental instability.

Let me just share with you an incident that I think is illustrative of the need, in my judgment, for there to be a waiting period. There was an incident that occurred right across the street from my office. At 8:30 a.m. on the morning of April 24, an employee of a public utility opened fire with a .38 caliber pistol. After shooting her supervisor and manager, she turned the gun on herself and committed suicide. Passed over for promotion, the woman had submitted her notice of resignation earlier in the week. The afternoon before the shooting, the employee bought the .38 caliber snubnose revolver for $135 from a neighboring jurisdiction which does not require a waiting or cooling off period.

Neighbors later described the woman as a nice, respectable lady. She had been employed by the utility for 8 years.

Though the incident occurred in the City of Atlanta, it was made possible by the lack of a waiting period in a neighboring location. And that points out the need for national legislation. The patchwork quilt approach has never worked, and it never will.

When this legislation is combined with other important steps, it can be an effective avenue for preventing some of the handgun deaths and accidents that police face on a daily basis.

The law enforcement executives who comprise the Police Executive Research Forum strongly support the adoption of a national waiting period.

We appreciate having this opportunity to share our concerns with you today. I would be happy to respond to any questions that you might have.

Mr. HUGHES. Thank you very much, Commissioner.

[The statement of Mr. Napper follows:]

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POLICE EXECUTIVE
RESEARCH FORUM

DARREL W. STEPHENS
EXECUTIVE DIRECTOR

SUMMARY OF TESTIMONY BEFORE THE

HOUSE JUDICIARY SUBCOMMITTEE ON CRIME

The members of the Police Executive Research Forum, law enforcement executives from the nation's largest jurisdictions, strongly support a national waiting period for the purchase, transfer or delivery of a handgun. The Forum has long supported strong federal handgun legislation. In March 1987, Forum members were polled regarding the waiting period for handgun purchases. There was unanimous agreement among those responding that the Forum should support such legislation.

The waiting period serves two important purposes. It provides time for law enforcement officials to conduct background investigations and it allows for a cooling off period for potential handgun purchasers.

There is an obvious need for national legislation. The patchwork approach by state and local governments has never worked and it never will. We applaud the efforts of this Subcommittee to push forward with sensible handgun regulation. Congressman Feighan and Senator Metzenbaum should be commended for introducing legislation that takes the first important step in preventing handgun-related deaths and accidents police face on a daily basis.

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POLICE EXECUTIVE
RESEARCH FORUM

DARREL W. STEPHENS
EXECUTIVE DIRECTOR

Testimony Before the Subcommittee on Crime of the House Committee on the Judiciary

National Waiting Period for the Purchase of Handguns

Presented by:

Police Executive Research Forum
George Napper, PERF Board Member
and Commissioner of the Atlanta Department of Public Safety

February 24, 1988

Mr. Chairman, Members of the Subcommittee, Ladies and Gentlemen: I am pleased to have the opportunity to talk with you today on behalf of the members of the Police Executive Research Forum. I am here to tell you that Forum members do, indeed, support a waiting period for the purchase of handguns. As law enforcement executives from the nation's largest jurisdictions, we serve over 30 percent of the country's population. We have long been dedicated to speaking out on issues concerning the safety of our officers and citizens.

We commend Chairman Hughes for holding these important hearings and applaud the efforts of Senator Metzenbaum and Congressman Feighan for introducing S. 466 and H.R. 975 respectively, bills that would provide for a waiting period before the purchase, transfer or delivery of a handgun. We share your concerns that something more must be done to keep handguns out of the wrong hands.

Nationwide every day, handguns are the cause of death for about 62 people. That adds up to 22,000 handgun-related suicides, accidents and homicides a year. Homicide by gun claims 9,000 annually, and homicide continues to be the leading cause of death for American black men between the ages of 15 and 24. More than half of all homicides are committed with handguns.

As Commissioner of the Atlanta Department of Public Safety, these figures cause me particular concern. Atlanta is a majority black city, with a black administration.

Nationally, about 42 percent of all murder victims, men and women, are black, though blacks represent just 12 percent of the U.S. population. Nearly 34 percent of all murder victims are black males, though they comprise only 5.6 percent of the general population. A black male faces a 1-in-12 lifetime chance of being murdered, compared to a white male whose odds are 1-in-131.

In Atlanta, handguns were responsible for 100 homicides in 1986 and 126 (or 61 percent) of the homicides in 1987. Atlanta police confiscated 1,600 weapons from perpetrators in 1985, 2,200 in 1986, and 2,968 in 1987. These are alarming numbers to me.

There are an estimated 60 million handguns loose in America - about one for every four of us - and they are a major source of the epidemic of violence we are experiencing in this country today.

In 1981 the Attorney General's Task Force on Violent Crime urged the adoption of a national waiting period before handgun purchases. The Forum supported this recommendation as part of a larger program of strong federal handgun laws. Most recently, in March 1987 Forum members were polled regarding the waiting period for handgun purchases. There was unanimous agreement among those responding that the Forum should support such legislation.

The waiting period serves 2 purposes. It provides time for law enforcement officials to conduct background investigations and it allows for a cooling off period for potential handgun buyers.

The City of Atlanta has had a 15-day waiting period since 1980. This ordinance allows us to deny applications on grounds of criminal record or mental instability. Often the paper work is completed and the handgun can be purchased before the waiting period is over. The 15 days, however, allows us to complete investigations even during peak periods. In the case of history of prior mental illness, it also permits us to get a statement from the treating physician or psychologist regarding the competence of the applicant to own a handgun.

There is strong evidence to support the efficiency of a waiting period and background check in keeping handguns out of criminal hands. The California Attorney General's Office reports that the state's 15-day waiting period screened out 1,200 illegal purchasers in 1981 alone. In 1982, the first year in which the 15-day waiting period was implemented in the Atlanta Bureau of Police Services, there were 900 applicants for handguns. Forty-two were rejected for felony records and misdemeanors involving handguns. Two were disqualified for mental disorders.

A second function of the waiting period is to serve as a cooling off period which could deter crimes of passion and suicide.

Let me tell you about a recent incident which occurred across the street from my office. At 8:30 a.m. on the morning of April 24, an employee of a public utility opened fire with a .38 caliber pistol. After shooting her supervisor and manager, she turned the gun on herself and committed suicide. Passed over for a promotion, the woman had submitted her notice of resignation earlier in

the week. The afternoon before the shooting, the employee bought the .38 caliber snubnose revolver for $135.00 in a neighboring jurisdiction which does not require a waiting or cooling off period.

Neighbors later described the woman as a "nice respectable lady." She had been employed by the utility for 8 years.

Though the incident occured in the Atlanta jurisdiction, it was made possible by the lack of a waiting period in a neighboring location. And that points out the need for national legislation. The patchwork quilt approach has never worked, and it never will.

I would like to address some of the arguments raised by opponents of the legislation before you.

- Inconvenience to law abiding citizens. While the waiting period may be inconvenient for law abiding citizens, I believe that its benefits far outweigh any potential inconvenience.

- Diversion of law enforcement resources. The intent of this legislation is to prevent criminal acts. I can think of no better expenditure of police resources than crime prevention. The legislation does not set hard and fast rules, but rather, leaves it to the chief law enforcement official to determine if and how to conduct a background check during the waiting period.

Firearms registration. Additional concerns have been expressed regarding the possibility of police using the application to maintain a firearms registry. This should not be a concern, since the legislation provides that law enforcement agencies will dispose of records after 60 days if the purchase or transfer is not prohibited.

- Not the whole answer. Still others have argued that this legislation would not keep criminals from obtaining handguns and that the "cooling off" period will not eliminate crimes of passion and suicide. I agree. This legislation is not a panacea. It is, however, a big step in the right direction.

When this legislation is combined with other important steps it can be an effective avenue for preventing some of the handgun deaths and accidents that police face on a daily basis.

The law enforcement executives who comprise the Police Executive Research Forum strongly support the adoption of a national waiting period. We appreciate having the opportunity to share our concerns with you today. And, I would be happy to respond to questions.

Mr. HUGHES. Colonel Pagano, you have about 36 years experience in law enforcement?

Mr. PAGANO. Yes, sir.

Mr. HUGHES. Can you tell me, first of all, that you know from your experience that a waiting period does provide a cooling-off period and saves lives? Are you basing that on statistics or just through experience?

Mr. PAGANO. I think primarily on experience. I don't know—unless you cite the cases such as the airlines case, a case that was cited in Atlanta, or really even the shooting of my own brother, that you are going to be able to capture a statistical base that will effectively illustrate the argument.

I think experience plays a great role. I think as you listen to police types today, you are going to find that it is the experience that makes a difference.

Mr. HUGHES. The Federal Government—BATF—now requires all licensed dealers to have a form completed by purchaser.

Mr. PAGANO. Correct.

Mr. HUGHES. It asks questions about whether the individual, the purchaser, has a criminal record or a mental history.

Is it your experience, based upon your record check—the law in New Jersey—that people tell the truth when they make application?

Mr. PAGANO. No, they lie. They lie in writing. We do have what I consider to be an effective background check, but in the presentation that I have here—we had 34,119 people who have been denied since 1966.

Mr. HUGHES. The majority of the people tell the truth, I presume.

Mr. PAGANO. The majority of the people tell the truth.

Mr. HUGHES. What percentage actually misrepresent facts on their application?

Mr. PAGANO. I can say how many of the 34,000 that we have denied—35 percent of those 34,000 were denied on the basis of misrepresentation on the application.

Mr. HUGHES. What type of misrepresentations did they make?

Mr. PAGANO. Misrepresentations in the main as to criminal records.

Mr. HUGHES. Did they misrepresent their address or name?

Mr. PAGANO. A variety of things—but the heart of the misrepresentation is a record of felony.

Mr. HUGHES. The argument is made that people with felony records don't make applications at the gun dealers to buy weapons; and that basically they buy their weapons on the street.

Mr. PAGANO. Not true. Our experience shows that they go to great lengths to develop identification or to misrepresent true identification in order to go to a legitimate purchase location. They don't want to be caught and quickly discovered being in possession of a weapon that has been reported stolen.

If there's any system right now that is working really at optimum, it's NCIC—and that will report by number a stolen weapon.

Mr. HUGHES. Commissioner, is it possible in a large jurisdiction such as yours to really do an effective investigation without fingerprints or social security number?

Mr. NAPPER. Fingerprinting is a part of what we do in the City of Atlanta, so we don't have any experience apart from using the fingerprints as a way of trying to get some information in our background checks.

As I indicated, we have a 15-day waiting period and our people tell me that for the most part they are able to complete the investigations within 8 or 9 days. But there's also a more extended waiting period for those who come to our city for the first time, or newcomers, and they have to wait a substantially longer period of time so that we can complete the background investigation.

Mr. HUGHES. What percentage, if you know, of the handguns that you pick up in your community come from out of the State? Any idea?

Mr. NAPPER. I really don't have any information on that. If we can get that I will make sure, Mr. Hughes, that you get it.

Mr. HUGHES. That would be useful to us.

[The information follows:]

FROM

COMMISSIONER GEORGE NAPPER
DEPARTMENT OF PUBLIC SAFETY
120 RALPH MCGILL BLVD, NE
SUITE 900
ATLANTA, GEORGIA 30308

FROM: Commissioner George Napper

FACTSHEET

Response to questions raised by Congressional Subcommittee

The origin of handguns used in local homicides is not clear. Handgun traces are carried out by the Bureau of Alcohol, Tobacco and Firearms at the requests of local jurisdictions. Trace requests have not been standard operating procedure in Atlanta's Bureau of Police Services. Rather, they have been made in those cases in which the investigator believed that a trace might provide valuable information. We are currently working with the ATF's Atlanta Bureau to establish interagency procedures for all homicides committed with firearms. Such traces will be useful in the investigation of both the homicides and other criminal connections. Of course, this data collection will not present the full picture on the origin of handguns used in local homicides. In some cases, the weapon may have been privately purchased or stolen. In others, the weapon will never be recovered. We have not devised a system to track such exceptions.

While specific statistics are not available, it is clear that the current spotty system of waiting periods is not effective. The City of Atlanta is virtually the only jurisdiction in the metro area requiring a waiting period. Because of the lack of a standard waiting period, the law is rendered less effective. An individual may go to an Atlanta gun shop and be advised of the time requirement. If this is unsatisfactory, the customer may be told that the owner has a suburban store, the desired firearm is transferred to that store, and the transaction is made there. The Atlanta waiting period would be more effective if a mandatory waiting period was enacted by the State and could further be reinforced by National policies mandating a waiting period for purchase of handguns.

The attachment outlines the procedures currently in effect for the City of Atlanta. When we put this procedure in place, recognized weaknesses in the system but saw it as an important symbol. Of particular note is a loss of effectiveness in dealing with out of state applicants, whose criminal records would not be captured by our records check. Neither does our system allow us to adequately address mentally ill applicants who chose not to report their condition on the application form. We periodically review the procedures and make improvements where possible. However, until the problem is addressed on a wider scale, the trend toward increased use of handguns in felony offenses will probably continue.

I. BACKGROUND CHECK

After selecting a handgun from an authorized dealer, the applicant obtains a Bureau approved form from the dealer which is then brought to the Licenses & Permits Office. The applicant completes the form, is fingerprinted, and pays a $25.00 investigation fee.

The applicant's fingerprints are checked through the Bureau's Identification Unit and through Georgia Crime Information Center (GCIC). If the applicant has a criminal record, it is verified through the courts and involved police agencies. If needed, contact is made with the Alcohol, Tobacco, & Firearms Bureau of the U.S. Treasury Department.

II. DECISION RULE

Decisions to approve or deny are based on guidelines set out by City Ordinance Section 17-4002(b). Denial is effected if:

1. Applicant has been convicted of any crime of violence within the past five (5) years (including misdemeanors);

2. Applicant has been convicted with any felony related to firearms, sex, alcohol, or drug offenses within the past five (5) years;

3. Applicant was found guilty of the violation of any law governing the use of firearms within the past five (5) years;

4. Applicant is presently a fugitive from justice from any police jurisdiction within the United States; and

5. Applicant is presently suffering from any mental illness or has been treated for any mental illness within the past 10 years. If so, the location of the hospital or mental institution providing such treatment.

Additionally, the staff is instructed to observe for evidence of being distraught, unusual nervousness, intoxication, impatience, or hostility while the applicant files for approval to purchase. These observations generally indicate an applicant who may wish to obtain a firearm immediately for unlawful purposes.

III. WAITING PERIOD

There is a fifteen day waiting period for investigation of handgun purchase permits. However, if the applicant has been approved to carry a weapon and has a current license, his application to purchase a firearm is approved pending the receipt of any derogatory information via fingerprints and GCIC. Every effort is made to expedite applications within the fifteen day period.

Our primary concern is that the general public is protected from individuals who are potentially dangerous.

Mr. HUGHES. How about you, Colonel, do you have any idea of how many guns you seize are used in the commission of crimes that were purchased out of State?

Mr. PAGANO. I don't have the information with me, but I know that we can get that information. We destroy thousands of handguns each year—thousands.

Mr. HUGHES. Is it minor or is it significant?

Mr. PAGANO. It is significant—significant, without doubt.

Mr. HUGHES. Based upon your experience, are these guns that are purchased in States that have no waiting period, or where are they purchased?

Mr. PAGANO. Guns where the purchase regulations are less stringent. Guns where if the person had made application in our State, they would not have been granted permission.

New Jersey law has a flip side—not only does it screen and try to take from the system people acquiring firearms who should not, it also gives the law enforcement an authority to move against people who should have been prevented and are found in possession.

Mr. HUGHES. Thank you.

The gentleman from Florida.

Mr. MCCOLLUM. Thank you.

Colonel Pagano, it is my understanding from some of the statements that are to be presented later today that the National Crime Information Center at the FBI is only automated for persons born after 1955. Background checks on persons born before then require fingerprints being sent in and a longer period to check out whether or not they have a criminal record—2 or 3 weeks or longer.

Is that your understanding?

Mr. PAGANO. No, no, not at all.

My understanding is that on the basis of the fingerprints the FBI should have print records far back beyond 1955. Not as far as NCIC is concerned, that is not really the index. That's the index of wanted people. That's not the index of criminal activity essentially. As far as NCIC is concerned, that would be correct. But that doesn't touch the criminal history file in total.

Mr. MCCOLLUM. I understand it doesn't touch the whole total but is the fact correct that it takes longer to check on those people who were born before 1955 because the records at NCIC are not automated for whatever NCIC has that you would use them?

Mr. PAGANO. Sir, in all due respect, NCIC is a name check only. It is not a fingerprint check. The NCIC check is a quick reference—a very valuable reference—but a name check only.

Mr. MCCOLLUM. OK, but if you have to do a fingerprint check does it take 2 or 3 weeks to get the results back?

Mr. PAGANO. It can take easily 2 or 3 weeks. Our turnaround time for criminal history records right now is a day and a half. This is an applicant print that you would be processing for a firearm, so it could take 2 to 3 weeks. Frequently it is less, though.

Mr. MCCOLLUM. What I am trying to get at is the value of the 7-day waiting period, as to whether or not it is indeed a practical period in light of the current available information and the degree of automation in our system.

I am not suggesting that we can't improve that. But at the present moment, how much are we going to get accomplished in 7 days as opposed to 3 weeks or a month?

Mr. PAGANO. When you look at it from a systemic view, a systemic perspective, there's a valid argument in that respect.

When you look at it from the basis of experience—experience in law enforcement—that 7-day period, even if the system is not working, in most cases will be sufficient to give that person time to think twice about whether they want to buy and use that firearm. So the system, even if it is systemically out of sync, still has a great benefit.

Mr. MCCOLLUM. But that benefit would be there for the 48-hour cooling-off period as well which some of the States have adopted, as well as 7 days.

I guess what I am getting at is there are two distinct different reasons for a waiting period: one is cooling off, and one is to check the criminal record.

And you are saying for a criminal record check, 7 days is maybe not sufficient, but it is certainly a cooling-off period?

With regard to the NRA testimony, they point out that in New Jersey the majority of requests for handgun permits are denied for reasons other than an existing criminal record.

Is that an accurate assertion on their part?

Mr. PAGANO. I will give it to you exactly, sir. Give me just a moment.

Thirty-nine percent of the denials are because of criminal histories. The remainder would be because of a variety of reasons: drug involvement, alcohol involvement, and involvement with mental problems where we require a doctor's certificate before the permit is issued.

Mr. MCCOLLUM. The NRA also says that New Jersey's rate of firearm-related violent crime has significantly increased.

Is that true?

Mr. PAGANO. Give me that again, sir.

Mr. MCCOLLUM. They say that New Jersey's rate of firearm-related violent crime has significantly increased since your handgun control law.

Mr. PAGANO. Absolutely not true. Absolutely not true. New Jersey, since 1967 when we first began keeping these comparative records, has consistently been below the national average as far as the use of weapons in crimes.

The national average for robberies committed with a firearm is 34.3 percent. New Jersey's average is 27.6 percent.

Mr. MCCOLLUM. But how about on a comparative basis within your own State, has there been—I guess I'm looking for whether there's any foundation for their assertion, if you are just comparing national averages and rates to New Jersey's, which obviously are favorable in New Jersey's case—internally has there been an increase in firearm-related crimes over the given period of years recently, or over the period of time involved in the time since this in fact went into effect?

Mr. PAGANO. I really can't answer the question. I don't have the stats with me, but there have been changes in the figures from year to year. But as far as the comparison with the northeast, as

the records are kept, with comparison nationally, the incidence of firearms involvement is measurably lower in New Jersey.

Mr. McCollum. Do you have any problem with the preemption of the State law by a Federal law coming into place that might affect yours?

Mr. Pagano. H.R. 975 creates no problem for New Jersey.

Mr. McCollum. Thank you very much.

Thank you, Mr. Chairman.

Mr. Hughes. The gentleman from Ohio.

Mr. Feighan. Thank you, Mr. Chairman.

Colonel, can you tell us again how long the background check system has been in place in New Jersey?

Mr. Pagano. Since 1966.

Mr. Feighan. Now, is your office in a position to monitor the complaints made by the citizens of New Jersey, particularly those law-abiding citizens attempting to purchase handguns? Obviously they must have some concerns. Can you give us a sense what the public reaction has been in New Jersey to the law that has had now considerable experience?

Mr. Pagano. In an overview situation, every major poll ever conducted in our State has supported our gun control. As far as monitoring is concerned, we not only monitor, we referee. Because in many cases we will find a citizen coming forward with a complaint that their application has been turned down by a local chief, and we as a State agency will intercede—a couple of occasions actually support that citizen in a courtroom setting.

But by and large, of a number of complaints, as far as this Act is concerned, since the original enactment of our gun control law, has been minimal.

Mr. Feighan. Do you happen to know what the percentage of complaints per number of applicants might be each year?

Mr. Pagano. No, I don't.

Mr. Feighan. Is there any serious movement in the State legislature for repeal of the provisions that provide for the background check?

Mr. Pagano. We have a movement in New Jersey right now to modify the purchase requirement for a handgun. Whether that is serious or not, I don't know. Only time will tell what kind of reaction we are going to get in the legislature.

Mr. Feighan. Colonel, and Commissioner, one of the arguments that is made against a national waiting period proposal is that it would place an unduly and harsh burden on local law enforcement agencies.

I wonder if you could tell us from your own experience whether or not that is a fair challenge to the proposal? Is an unmanageable burden placed on your law enforcement agencies? Clearly some additional burden is placed on them. Is that burden outweighed by the benefits of the background check?

Mr. Pagano. I honestly believe that there is a burden. But when you speak in terms of what you try to accomplish in law enforcement, prevention certainly is far more important than after action investigation. It is a shifting of burden is what it really is.

Mr. FEIGHAN. Is there any way you could quantify that burden for us in terms of man-hours, for maintenance of the records, or investigation? Has anyone attempted to do that in New Jersey?

Mr. PAGANO. I would be able to tell you exactly what the State level expenditure has been—I don't have it with me. But I can't quantify it as far as a comparative situation and given all the activities we are involved in.

Mr. FEIGHAN. Commissioner.

Mr. NAPPER. I would agree with the Colonel that it does to some extent pose an additional problem for us of sorts. But our experience is a different one than the Colonel's. He has a statewide system in place. We are surrounded on all sides by jurisdictions that don't have waiting periods. So our workload has not been as great. But even if it were greater, I think the point that the Colonel makes about the importance of the prevention dimension is extremely important.

We can do those things up front and not spend a lot of time after the fact trying to find the murderers, what have you. I think that the balance is in the right direction by having a waiting period.

Mr. FEIGHAN. Of course I would point out, too, that under this legislation the background check provisions are permissive, so that States and local jurisdictions have that complete discretion to the extent to which they want to conduct those checks, if at all.

Let me just conclude by asking both of you if you would comment on the adequacy—this is in some degree a follow-up on the questions of the gentleman from Florida—of a 7-day provision.

Is it insufficient time? Or within that 7-day period will we be able to make at least a substantial impact in reviewing backgrounds?

Mr. NAPPER. Again, I speak from slightly more limited experience than the Colonel with respect to this whole situation, but as I indicated earlier, our people tell me that they are able to do a sufficient background check within a 10-day period. So, obviously, the longer the waiting period for us, the better it would be.

I think that is better than nothing. And for there to be a national policy that establishes a floor, again, I think it is better than nothing. And it seems to me that most of the law enforcement agencies who are looking at this issue have agreed upon a 7-day period. So I have no problem with it, though I would personally opt for a slightly longer period.

Mr. FEIGHAN. Thank you, Commissioner.

Mr. PAGANO. I think I would concur. I think it would be ludicrous for me to say that all the systems in the application area work within a 7-day period, but it heads in the right direction. I believe the Commissioner made a point in his direct testimony about the laws being a patchwork quilt—where you have a problem in Atlanta, and the citizen who is so inclined jumps across the city line and buys a gun somewhere else. I think that it is just the way we have described it in our testimony to this point.

Mr. FEIGHAN. Thank you.

Mr. HUGHES. The gentleman from Pennsylvania.

Mr. GEKAS. I thank the Chair.

To the Colonel, I pose this question. We are saying that in New Jersey that a person convicted of a criminal act, who goes to pur-

chase a handgun at a dealer's shop can be uncovered and prevented from having that deal go through. Is that correct?

Mr. PAGANO. Yes, sir.

Mr. GEKAS. And the same with mental incompetents?

Mr. PAGANO. A little more difficult, but yes.

Mr. GEKAS. And persons addicted to narcotics?

Mr. PAGANO. Correct, sir.

Mr. GEKAS. And persons where the best interest of the public's health, safety, and welfare would not be served?

Mr. PAGANO. Correct.

Mr. GEKAS. That judgment is made by whom?

Mr. PAGANO. The judgment is made by the local police chief to whom the application is made. And if there is a miscall on the part of that chief, there is an appeals process to the local district court.

Mr. GEKAS. So that the felons, the mental incompetents, and even those who, on a judgment of discretion on the part of the chief law enforcement officer are prevented from buying a handgun——

Mr. PAGANO. A weapon, per se, sir.

Mr. GEKAS. Pardon me?

Mr. PAGANO. A weapon per se.

Mr. GEKAS. A weapon per se, OK.

So that a person who lawfully—who doesn't have any of these background problems, can buy a gun. Nobody will oppose it. No background check will show anything untoward; is that correct?

Mr. PAGANO. That's correct. In fact, in numbers-wise, sir, we have a population in excess of eight million in New Jersey and we have an excess of a million people who have made application—only 35,000 of whom have been denied.

Mr. GEKAS. So these people who had a 50-day waiting period—ones convicted of criminal acts, mental incompetence, and so forth, would be screened out.

Mr. PAGANO. Correct.

Mr. GEKAS. With an 8-day, 3-day, or no waiting period, they would ultimately be screened out. So the only one who would have to wait the waiting period would be the one who lawfully buys a gun, has no background problems at all.

Mr. PAGANO. In New Jersey, the waiting period is built into the system already. It is not a 7-day waiting period. It is the——

Mr. GEKAS. It is what?

Mr. PAGANO. It is a period that it takes to complete the investigation.

Mr. GEKAS. That's what I'm saying.

Mr. PAGANO. Correct.

Mr. GEKAS. So if it takes 50 days to do a background check, the only one who would have to wait the 50 days would be the—they all have to wait—but the one lawfully without a background check would be affected by having to wait for 50 days and the others would be rejected.

Mr. PAGANO. Correct.

Mr. GEKAS. To the Commissioner I would ask in his review of the statistics of the homicides, particularly among blacks, is there a correlation of the tracing of the gun that was used there as to whether the person wielding that gun had lawfully purchased it,

had obtained a permit, and gone through the regular procedures? Is there any statistical tie-in with that?

Mr. NAPPER. I don't know of any studies focused on that particular kind of relationship.

Mr. GEKAS. I am talking about studies—excuse me—I am talking about whether or not in the investigation of a particular case is it a point of determination to determine where that person got that gun?

Mr. NAPPER. I don't have information on that.

Mr. GEKAS. Could you supply me or the others with that information? That would be very interesting to try to——

Mr. NAPPER. It would be, yes, sir. I will do my best.

Mr. GEKAS. Thank you, I have no further questions.

Mr. HUGHES. Does the gentleman yield back the balance of his time?

Mr. GEKAS. I yield back.

Mr. HUGHES. The gentleman from Florida.

Mr. LAWRENCE SMITH. Thank you, Mr. Chairman.

I want to commend both witnesses for excellent testimony. Certainly we have heard from Colonel Pagano a number of times before and always appreciate his insight.

Colonel, you have indicated that you feel that statistically you can show, by virtue of the reduction or the lower figure in your State on the percentage of weapons, guns, handguns, involved in homicide cases, how statistically it is provable that a waiting period does in fact have some impact—positive impact—against other States where there is no waiting period.

Commissioner Napper, you have talked about the case of the lady who worked for the utility.

Mr. NAPPER. Yes.

Mr. LAWRENCE SMITH. Of course, statistically that's hard to document. We had a case in Florida the same way about 3 years ago. An elderly man who lived in Dade County, FL, where there was a waiting period, came to Broward County where there was no waiting period, right next door, maybe a drive of eight or nine miles. A man that was fairly elderly, distraught, a lot of personal family reverses—and he bought a gun in the county where there was no waiting period and he went right next door to my office in the parking lot and shot himself, right out in the open.

Many of us believe that had there been a waiting period in the next county, he would have had time to reexamine the situation, and chances are he wouldn't have done it. Your story fits right in.

Colonel, your statistics fit right in with the same theory, that there are many times when the lack of availability of that handgun, in fact, ultimately, prevents a crime or a tragedy from being attempted, or perpetrated.

I am very grateful that you raise these issues.

Mr. Chairman, I see that the Mayor is here—if you want to interrupt and let him testify.

Mr. HUGHES. Go ahead and finish.

Mr. LAWRENCE SMITH. Thank you.

I wonder if either of you two gentlemen happened to see The Washington Post this morning?

Mr. PAGANO. No, sir.

Mr. LAWRENCE SMITH. There's an ad in there, taken out by our friends at the National Rifle Association, which compares Senator McClure's bill to this bill—which in the Senate is the Metzenbaum bill—and, of course, shows how this would be a terribly vicious act against gun owners, and so on and so forth.

Again, neither one of you honestly believe that this is any attempt at gun ownership and no attempt at confiscation of weapons; is that correct?

Mr. PAGANO. No, sir, I don't. In fact, I don't believe that the New Jersey act, which is probably the most comprehensive State level act in the Nation, is in any way intended to deny access or ownership of firearms.

I believe it is an intelligent approach to a very serious problem—crime in our State—and it only denies access to people who shouldn't have them.

Mr. LAWRENCE SMITH. When it was passed in 1980, were you in the State?

Mr. PAGANO. 1966, sir.

Mr. LAWRENCE SMITH. Were you in the State in 1966?

Mr. PAGANO. I helped write it.

Mr. LAWRENCE SMITH. You helped write it.

Now, can you recall back in 1966—which is 22 years ago—the arguments made by the National Rifle Association?

Mr. PAGANO. Same arguments that you have today, sir.

Mr. LAWRENCE SMITH. Restriction of ownership, confiscation—and if the enemy comes to the shores we will be powerless and defenseless. Is that basically the argument they made?

Mr. PAGANO. Yes.

Mr. LAWRENCE SMITH. Now, let me ask you. What has been the proliferation of gun ownership in New Jersey since 1966? Are there more guns held privately in individual Americans hands today in New Jersey than there were in 1966?

Mr. PAGANO. Yes.

Mr. LAWRENCE SMITH. So there was no confiscation whatsoever, no attempt to remove weapons from the hands of legitimate American citizens. And, in fact, more American citizens who live in New Jersey have guns than they had in 1966; is that right?

Mr. PAGANO. Correct, sir.

Mr. LAWRENCE SMITH. Do you think that explodes the myth of that argument?

Mr. PAGANO. I think it explodes it. I think a similar article—which I have read—are articles appearing in the National Rifleman, and in the Hunter—an NRA publication—seeking complaints against the New Jersey law. That was printed nationally.

To the best of my knowledge, only six complaints came forward, for which we couldn't verify at all because they had no involvement with the State Police; two of which you are familiar with—one we dispute, the other is in litigation. And that's six out of how many million publications, I don't know.

Mr. LAWRENCE SMITH. One final question for both of you.

You both represent police agencies—Mr. Napper in Atlanta, a city police force, and Colonel Pagano, a State police force.

The NRA makes a constant strong argument that they represent a lot of policemen—on the line policemen. And they say that those policemen are against gun control in any form.

Now, I have had representatives in my office of the International Brotherhood of Police Officers, the FOP's, the police chiefs, the superintendents, and every one of them—and they have taken out ads and they have done everything. And, of course, they are not going to get, on an approval form for legislation like this, every police officer in the United States to sign up. I know that.

But would you tell me, in all the years you have been dealing, have you found a majority of your men—the ones you work with and interact all the time—in favor of, or opposed to, this type of legislation? Both of you.

Mr. PAGANO. In favor of. In fact, I think that anyone who really is out dealing with citizens and dealing with violence each day, I think that the majority—the overwhelming majority of policemen in that category will want to do whatever can be done to restrict the possession of firearms by the people that they have to face on the highway.

Mr. LAWRENCE SMITH. Mr. Napper.

Mr. NAPPER. That's exactly my experience and my understanding—that we have a serious handgun violence problem in this country. And to have a waiting period, a cooling-off period, is something that just makes good sense and is a step in the right direction of keeping the guns out of the hands of people who obviously should not have access or possession of them.

Mr. LAWRENCE SMITH. Would your police officers feel safer and in fact be safer if this was the law of the land?

Mr. NAPPER. I think so.

Mr. PAGANO. I believe so.

Mr. LAWRENCE SMITH. Thank you very much.

Mr. HUGHES. Thank you.

I want to welcome at this time the distinguished Mayor of the City of Trenton, Arthur J. Holland, who has just joined us.

He has been the Mayor of Trenton for a number of years. He is also Vice President of the United States Conference of Mayors, and is appearing today on behalf of that Conference.

If it is agreeable with my colleagues, what I would like to do is take the Mayor's testimony at this time and then we can go back to the questioning.

Mayor, welcome. What we would ask you to do—we have a copy of your statement which we have read. I wonder if you could just summarize it for us so we can get right back to the questioning?

Welcome, Mayor.

Mr. HOLLAND. Thank you, Mr. Chairman, and members of the subcommittee.

The Conference of Mayors and this subcommittee, as you know, have worked together on a number of issues in the past. and today we are pleased to present our views in summary on a very important piece of handgun control legislation, H.R. 975, the so-called Brady bill.

The Conference of Mayors has a long history of support for gun control legislation. In 1968—two full decades and a full generation ago—the Conference passed resolutions, that is, policy positions,

which called for Federal legislation requiring the registration of all firearms and prohibiting the interstate mail order sale of all guns and ammunition.

In 1972, that policy was strengthened by a call for national legislation that would ban the manufacture, sale, importation and private possession of handguns, except for use by law enforcement personnel, the military, and sports clubs.

In 1975, we added a call for legislation that would impose mandatory sentences on firearm-related crimes.

More recently, in 1986, we enacted a policy calling for legislation banning the domestic manufacture or importation of plastic handguns or any firearms which are not detectable by standard security detection devices.

The policy of the Conference of Mayors is, quite simply, the strongest stand against handgun violence taken by any national organization of elected officials. Today, mayors from cities across the Nation continue to give their support to this position. Violent crime has increased dramatically in our cities.

According to Federal Bureau of Investigation statistics, three out of every five murders committed in the United States in 1966 involved firearms. Handguns were used in a full 44 percent of those murders. And, further, 34 percent of all robberies committed in 1986 involved the use of a firearm. This represents a 6-percent increase over the previous year.

We have noticed in our city recently, as crack has become more pervasive that we've reached a point now where dealers and pushers are getting into conflict with themselves and shooting one another—and using handguns, of course.

It is imperative that we as a Nation recognize the profound ill-effects that handguns have on our society—not only in the number of murders and armed robberies committed, but also in the fear that handguns are instilling in our people.

It is a fact that many people in our cities live in fear. They are afraid to go out at night. Many, especially the elderly, are afraid to venture out of their homes at any time of the day. The fact that handguns are readily available to any and all would-be attackers is a major source of this fear.

We must take a stand. We must, as a Nation, enact Federal legislation mandating a waiting period for anyone who wishes to purchase a handgun. Such a waiting period would allow law enforcement officials to make sure that the weapons are not being sold to people who are legally prohibited from buying them.

The 1968 Gun Control Act prohibits criminals, those judged to be mentally ill, minors, illegal aliens, and drug addicts from acquiring handguns. However, the Act has no law enforcement mechanism for insuring that individuals in those groups never, in fact, purchase weapons.

H.R. 975 provides just the type of mechanism that we need to make the 1968 Act much more effective. By mandating that all people who attempt to purchase handguns must submit to a record check by the chief law enforcement agent in their home community, the Brady bill would put some teeth in the 1968 Act.

This is an important change which, I am sure you know, was recommended by the U.S. Attorney General's Task Force on Violent

Crime in 1981. It will be a great help in our efforts to protect our citizens.

My home State of New Jersey, represented today by Colonel Pagano, has under statute, a 7-day waiting period for people that want to purchase handguns. In addition to the 7-day period, there is a processing period of up to 30 days, during which a background check can be performed. This is one of the toughest State gun laws in the country, and as you have just heard from Clinton Pagano, it has been very successful.

Over the 19 years that it has been in effect, some 10,000 convicted felons have been caught trying to buy handguns. We believe that a national waiting period can have a similar positive effect in every State in the Nation.

The U.S. Conference of Mayors supports H.R. 975. We applaud your efforts to reform and strengthen our Federal gun control laws. And, as always, we are ready to work with you to that end

Thank you, Mr. Chairman.

Mr. HUGHES. Thank you, Mayor.

[The statement of Mr. Holland follows:]

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STATEMENT OF

ARTHUR J. HOLLAND

MAYOR OF TRENTON

AND

VICE PRESIDENT

THE UNITED STATES CONFERENCE OF MAYORS

ON

GUN CONTROL LEGISLATION

BEFORE THE

SUBCOMMITTEE ON CRIME

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

FEBRUARY 24, 1988

CHAIRMAN RODINO, CHAIRMAN HUGHES AND MEMBERS OF THE SUBCOMMITTEE, I AM ARTHUR J. HOLLAND, MAYOR OF TRENTON AND VICE-PRESIDENT OF THE UNITED STATES CONFERENCE OF MAYORS.

THE CONFERENCE OF MAYORS AND THIS COMMITTEE HAVE WORKED TOGETHER ON A NUMBER OF ISSUES IN THE PAST, AND, TODAY WE ARE PLEASED TO PRESENT OUR VIEWS ON A VERY IMPORTANT PIECE OF HANDGUN CONTROL LEGISLATION, H.R. 975, THE BRADY BILL.

THE CONFERENCE OF MAYORS HAS A LONG HISTORY OF SUPPORT FOR GUN CONTROL LEGISLATION. IN 1968 — TWO FULL DECADES AND A FULL GENERATION AGO — THE CONFERENCE PASSED RESOLUTIONS — THAT IS, POLICY POSITIONS — WHICH CALLED FOR FEDERAL LEGISLATION REQUIRING THE REGISTRATION OF ALL FIREARMS AND PROHIBITING THE INTERSTATE MAILORDER SALE OF ALL GUNS AND AMMUNITION. IN 1972 THAT POLICY WAS STRENGTHENED BY A CALL FOR NATIONAL LEGISLATION THAT WOULD BAN THE MANUFACTURE, SALE, IMPORTATION AND PRIVATE POSSESSION OF HANDGUNS, EXCEPT FOR USE BY LAW ENFORCEMENT PERSONNEL, THE MILITARY, AND SPORTS CLUBS. IN 1975 WE ADDED A CALL FOR LEGISLATION THAT WOULD IMPOSE MANDATORY SENTENCES ON FIREARM-RELATED CRIMES. MORE RECENTLY, IN 1986 WE ENACTED A POLICY CALLING FOR LEGISLATION BANNING THE DOMESTIC MANUFACTURE OR IMPORTATION OF PLASTIC HANDGUNS OR ANY FIREARMS WHICH ARE NOT DETECTABLE BY STANDARD SECURITY DETECTION DEVICES.

THE POLICY OF THE CONFERENCE OF MAYORS IS, QUITE SIMPLY, THE STRONGEST STAND AGAINST HANDGUN VIOLENCE TAKEN BY ANY NATIONAL ORGANIZATION OF ELECTED OFFICIALS. TODAY, MAYORS FROM CITIES ACROSS THE NATION CONTINUE TO GIVE THEIR SUPPORT TO THIS POSITION. VIOLENT CRIME HAS INCREASED DRAMATICALLY IN

OUR CITIES. ACCORDING TO FEDERAL BUREARU OF INVESTIGATION STATISTICS, THREE OUT OF EVERY FIVE MURDERS COMMITTED IN THE UNITED STATES IN 1986 INVOLVED FIREARMS. HANDGUNS WERE USED IN A FULL 44 PERCENT OF THOSE MURDERS. FURTHER, 34 PERCENT OF ALL ROBBERIES COMMITTED IN 1986 INVOLVED THE USE OF A FIREARM. THIS REPRESENTS A SIX PERCENT INCREASE OVER THE PREVIOUS YEAR.

THESE ARE ASTOUNDING STATISTICS — STATISTICS THAT WE CANNOT LIVE WITH.

IT IS IMPERATIVE THAT WE, AS A NATION, RECOGNIZE THE PROFOUND ILL EFFECTS THAT HANDGUNS HAVE ON OUR SOCIETY, NOT ONLY IN THE NUMBER OF MURDERS AND ARMED ROBBERIES COMMITTED, BUT ALSO IN THE FEAR THAT HANDGUNS ARE INSTILLING IN OUR PEOPLE. IT IS A FACT THAT MANY PEOPLE IN OUR CITIES LIVE IN FEAR. THEY ARE AFRAID TO GO OUT AT NIGHT. MANY, ESPECIALLY THE ELDERLY, ARE AFRAID TO VENTURE OUT OF THEIR HOMES AT ANY TIME OF THE DAY. THE FACT THAT HANDGUNS ARE READILY AVAILABLE TO ANY AND ALL WOULD-BE ATTACKERS IS A MAJOR SOURCE OF THIS FEAR.

WE MUST TAKE A STAND. WE MUST, AS A NATION, ENACT FEDERAL LEGISLATION MANDATING A WAITING PERIOD FOR ANYONE WHO WISHES TO PURCHASE A HANDGUN. SUCH A WAITING PERIOD WOULD ALLOW LAW ENFORCEMENT OFFICIALS TO MAKE SURE THAT THE WEAPONS ARE NOT BEING SOLD TO PEOPLE WHO ARE LEGALLY PROHIBITED FROM BUYING THEM. THE 1968 GUN CONTROL ACT PROHIBITS CRIMINALS, THOSE JUDGED TO BE MENTALLY ILL, MINORS, ILLEGAL ALIENS, AND DRUG ADDICTS FROM ACQUIRING HANDGUNS. HOWEVER, THE ACT HAS NO LAW ENFORCEMENT MECHANISM FOR INSURING THAT INDIVIDUALS IN THOSE GROUPS NEVER, IN FACT, PURCHASE WEAPONS.

H.R. 975 PROVIDES JUST THE TYPE OF MECHANISM THAT WE NEED TO MAKE THE 1968 ACT MUCH MORE EFFECTIVE. BY MANDATING THAT ALL PEOPLE WHO ATTEMPT TO PURCHASE HANDGUNS MUST SUBMIT TO A RECORD CHECK BY THE CHIEF LAW ENFORCEMENT AGENT IN THEIR HOME CITY, THE BRADY BILL WOULD PUT SOME TEETH IN THE 1968 ACT. THIS IS AN IMPORTANT CHANGE WHICH, I AM SURE YOU KNOW, WAS RECOMMENDED BY THE U.S. ATTORNEY GENERAL'S TASK FORCE ON VIOLENT CRIME BACK IN 1981. IT WILL BE A GREAT HELP IN OUR EFFORTS TO PROTECT OUR CITIZENS.

MY HOME STATE OF NEW JERSEY HAS, UNDER STATUTE, A SEVEN-DAY WAITING PERIOD FOR PEOPLE WHO WANT TO PURCHASE HANDGUNS. IN ADDITION TO THE SEVEN DAY PERIOD, THERE IS A PROCESSING PERIOD OF UP TO 30 DAYS, DURING WHICH A BACKGROUND CHECK CAN BE PERFORMED. THIS IS ONE OF THE TOUGHEST STATE GUN LAWS IN THE COUNTRY, AND IT HAS BEEN VERY SUCCESSFUL. OVER THE 19 YEARS THAT IT HAS BEEN IN EFFECT, SOME 10,000 CONVICTED FELONS HAVE BEEN CAUGHT TRYING TO BUY HANDGUNS. WE BELIEVE THAT A NATIONAL WAITING PERIOD CAN HAVE A SIMILAR POSITIVE EFFECT IN EVERY STATE IN THE NATION.

THE U.S. CONFERENCE OF MAYORS SUPPORTS H.R. 975. WE APPLAUD YOUR EFFORTS TO REFORM AND STRENGTHEN OUR FEDERAL GUN CONTROL LAWS. AND, AS ALWAYS, WE ARE READY TO WORK WITH YOU TO THAT END.

THANK YOU VERY MUCH.

Mr. HUGHES. The gentleman from Texas.

Mr. LAMAR SMITH. Thank you, Mr. Chairman.

While I understand that the purpose of today's hearings is to discuss specific pieces of legislation, I simply want to make the point that to me there is a larger question that looms here, and that is the constitutional right of law-abiding American citizens to possess, own, and defend themselves with firearms.

And quite frankly, that constitutional question, to me, overshadows all discussions of any kind of gun control. I don't want us in our own minds to minimize it when in fact we are talking about one area that affects guns, being these two particular pieces of legislation—I don't want us to lose sight of, to me, a lot larger question, and that is the constitutional right to bear arms, as I mentioned a while ago.

It is awfully easy to gloss over the constitutional question. But to make the point in a different way—if we were willing to do that, for example, in other ways, for instance, if we were willing to ignore the constitutional right to be protected against searches and seizures, we could certainly have a police state that, without any notification, would barge into people's houses, ransack them and look for firearms; and I am sure that would also cut back on the number of firearms and the number of crimes committed with firearms.

But the Constitution rightly prohibits that action just as, in my judgment, it also protects the rights of American citizens to own firearms.

I have a couple of questions—first, for Colonel Pagano. In an area of questioning you were not able to answer whether or not the figures for New Jersey, limited to New Jersey, without comparing it to the national average, had changed as a result of the 1966 law that you mentioned in your testimony.

Would you provide the subcommittee, and me particularly, with statistics that compare, say, for the years 1970, 1975, and 1980, with the percentage of murders and other crimes during which firearms were used?

In other words, New Jersey's comparison as opposed to comparing New Jersey with the national.

Mr. PAGANO. I don't follow that, Mr. Smith. You want the comparative average?

Mr. LAMAR SMITH. No. In other words, what percentage of murders, what percentage of other crimes were committed with firearms in 1970, 1975 and 1980.

Mr. PAGANO. You want those three specific years.

Mr. LAMAR SMITH. The point I am trying to make is I am wondering what impact that 1966 had within the State of New Jersey itself, compared to past years.

Mr. PAGANO. I can give you that right now.

Mr. LAMAR SMITH. All right.

Mr. PAGANO. The comparative average has been measurably lower each year, from 1967 on, which was the first comparative year.

Mr. LAMAR SMITH. In other words, the percentage of those crimes committed with firearms has gone down?

Mr. PAGANO. Correct. Give me just one second. I know I've got it by year.

Mr. LAMAR SMITH. I will tell you what, if you will just provide those to me later on I will take your word on it.

Mr. PAGANO. I will provide for those specific years, Mr. Smith.

[The information was not submitted:]

Mr. LAMAR SMITH. You made the point very emphatically in your testimony that you felt the clear implication was that the 1966 gun law resulted in the percentage of crimes committed with firearms being below the national average.

Is it not true, though, that before the 1966 law went into effect that that was also the case, that New Jersey was below the national average in the percentage of crimes committed with firearms?

Mr. PAGANO. I don't believe it is, Mr. Smith. I don't know that I can answer the question.

Mr. LAMAR SMITH. All right.

Mr. PAGANO. I know I can research it for you though.

Mr. LAMAR SMITH. It is my understanding that it was below the national average even before the gun law.

Mr. PAGANO. I don't believe that's correct, but I can get the figures and get them to you.

Mr. LAMAR SMITH. Do that if you will.

[The information was not submitted:]

Mr. LAMAR SMITH. The next question is, it is my understanding that the New Jersey murder rates have increased more than 50 percent in the half dozen years immediately upon the 1966 gun law's passage; is that correct as well?

Mr. PAGANO. That could be. I don't know. I can get the figures for you. But the comparative figures as far as the involvement of firearms is concerned has been dramatically different—dramatically lower.

Mr. LAMAR SMITH. If in fact my statement is correct, and that is that the number of murders did increase 50 percent in the half dozen years after the gun law went into effect, would you let us know that?

Mr. PAGANO. Yes, I will. The number of murders?

Mr. LAMAR SMITH. Right.

Mr. PAGANO. Correct.

[The information was not submitted:]

Mr. LAMAR SMITH. Just a rhetorical question to you. If you—hypothetically speaking, of course—were a convicted felon and you knew of the New Jersey law, or equivalent laws, would you be inclined to try to purchase a handgun knowing that the law required an investigation of your background and that you would be found out?

Mr. PAGANO. I can tell you this, that of the 39,000 people who have been shown clearly to be restricted—39 percent of them have had records; they know darn well there's a strong investigation, but they come forward and make that application anyhow. It explodes that myth that they won't make application.

Mr. LAMAR SMITH. My point is that I think common sense would dictate that for a lot of felons who were trying to obtain a gun, they are not going to go to a gun dealer where they know their fingerprints or backgrounds are going to be traced. I think, instead,

they would go somewhere else to try to obtain the weapon. That's my point there.

Mr. PAGANO. I have been working with felons for 36 years and they have, to me, never shown good common sense in anything that they do.

Mr. LAMAR SMITH. Presumably there are some smart felons out there, and they are not all dumb.

Mr. HUGHES. Would the gentleman yield to me?

Mr. PAGANO. I am not being smart, Mr. Smith, but that's the way it is. My wife asked me last night, why the hell did that fellow go out and do that? I said, don't judge him by what you would do.

Mr. LAMAR SMITH. Yes, Mr. Chairman, I would be happy to yield.

Mr. HUGHES. I just want to make sure the record is clear.

It was my understanding that in our State, 29 percent of the applications were rejected because of prior felony records.

Mr. PAGANO. That's correct.

Mr. HUGHES. Twenty-nine percent.

Mr. PAGANO. That's correct.

Mr. HUGHES. Yes, OK.

Mr. PAGANO. Did I say 39 percent, Mr. Hughes?

Mr. HUGHES. Yes.

Mr. PAGANO. I apologize, I'm not too good with numbers—I have to read them.

Mr. LAMAR SMITH. Commissioner Napper, a couple of questions if I might. I know you represent the Police Executive Research Forum and you say in your testimony that in March of 1987, Forum members were polled regarding the waiting period for handgun purchases. There was unanimous agreement among those responding.

What is your membership? How many responded?

Mr. NAPPER. There are members of the PERF staff who are here. And I can provide that information for you as soon as this hearing is over. I don't have that at hand.

Mr. LAMAR SMITH. You don't know how many responded to that poll?

Mr. NAPPER. No, I don't.

Mr. LAMAR SMITH. All right.

Who makes up the Police Executive Research Forum?

Mr. NAPPER. The chief law enforcement executives of cities with a population of 100,000 or more and/or whose police department has 200 or more full-time police personnel.

Mr. LAMAR SMITH. OK.

Is there someone here that could tell me how many people responded to the poll or specifically what the question was that was asked?

Mr. NAPPER. I am not sure.

Mr. LAMAR SMITH. In addition to everything else that is being provided to me today that we didn't have today, would you provide that as well?

From the audience. Yes.

Mr. LAMAR SMITH. Thank you.

[The information follows:]

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DARREL W. STEPHENS
EXECUTIVE DIRECTOR

POLICE EXECUTIVE
RESEARCH FORUM

March 22, 1988

Hayden Gregory, Counsel
Subcommittee on Crime
207 Cannon House Office Bldg.
Washington, D.C. 20515

Dear Mr. Gregory:

Enclosed is the information PERF was requested to provide following the recent hearing of the House Subcommittee on Crime regarding a national waiting period for handgun purchase. We trust this information will be of assistance in clarifying law enforcement's needs for a waiting period.

First, described below are the Police Executive Research Forum's results of its waiting period poll. Contrary to the information that was disseminated at the hearing regarding the position of national policing groups, we have consistently checked with our members on these and other issues before making statements on their behalf. At the time this survey was conducted, March of 1987, we had 88 General Members, police chief executives in jurisdictions serving at least 100,000 people. Thirty-nine percent of them responded unanimously that they favored a national waiting period. A number of our subscribing and sustaining members also unanimously replied that they favored a national waiting period. (28 respondents). In addition, we discussed this measure at our annual meeting before about 100 attendees in May of 1987. Again, there was no opposition to the Forum's support of legislation that imposes a national waiting period. We have provided our members with regular opportunities to respond to legislative initiatives, and at no time did any member voice opposition to this stance. The survey pertaining to this issue read as follows: "The Forum should support legislation that would impose a uniform waiting period between purchase and receipt of a firearm." Respondents were instructed to agree or disagree. The Forum is rapidly expanding its membership; we presently have 250 members, 122 of whom represent the largest jurisdictions in the country. Together our members serve over 30% of the nation's population. While we have a relatively small survey sample, our return rate exceeds that of the survey referred to by Congressman Lamar Smith, which was conducted by Mr. Arenberg's group, by more than five times and accurately portrays the sentiments of this organization.

Also enclosed is the information requested of Commissioner George Napper, of the Atlanta, Georgia Department of Public Safety. He has provided summaries of their record-check procedures and policies. As you know, under Atlanta City Ordinance, the Commissioner's staff has successfully completed a number of background checks within their 15-day waiting period. His staff who face these issues on a daily basis provide further elaboration of his testimony regarding the relationship between a waiting period and reduced handgun violence.

We appreciate your allowing the Police Executive Research Forum to participate in these hearings. Please do not hesitate to call if there are any questions about the enclosed materials or our testimony. The written testimony is also enclosed, without any revisions. Thank you for consideration of the law enforcement position.

Sincerely,

Darrel W. Stephens
Executive Director

FROM

COMMISSIONER GEORGE NAPPER
DEPARTMENT OF PUBLIC SAFETY
120 RALPH MCGILL BLVD, NE
SUITE 900
ATLANTA, GEORGIA 30308

FROM: Commissioner George Napper

FACTSHEET

Response to questions raised by Congressional Subcommittee

The origin of handguns used in local homicides is not clear. Handgun traces are carried out by the Bureau of Alcohol, Tobacco and Firearms at the requests of local jurisdictions. Trace requests have not been standard operating procedure in Atlanta's Bureau of Police Services. Rather, they have been made in those cases in which the investigator believed that a trace might provide valuable information. We are currently working with the ATF's Atlanta Bureau to establish interagency procedures for all homicides committed with firearms. Such traces will be useful in the investigation of both the homicides and other criminal connections. Of course, this data collection will not present the full picture on the origin of handguns used in local homicides. In some cases, the weapon may have been privately purchased or stolen. In others, the weapon will never be recovered. We have not devised a system to track such exceptions.

While specific statistics are not available, it is clear that the current spotty system of waiting periods is not effective. The City of Atlanta is virtually the only jurisdiction in the metro area requiring a waiting period. Because of the lack of a standard waiting period, the law is rendered less effective. An individual may go to an Atlanta gun shop and be advised of the time requirement. If this is unsatisfactory, the customer may be told that the owner has a suburban store, the desired firearm is transferred to that store, and the transaction is made there. The Atlanta waiting period would be more effective if a mandatory waiting period was enacted by the State and could further be reinforced by National policies mandating a waiting period for purchase of handguns.

The attachment outlines the procedures currently in effect for the City of Atlanta. When we put this procedure in place, recognized weaknesses in the system but saw it as an important symbol. Of particular note is a loss of effectiveness in dealing with out of state applicants, whose criminal records would not be captured by our records check. Neither does our system allow us to adequately address mentally ill applicants who chose not to report their condition on the application form. We periodically review the procedures and make improvements where possible. However, until the problem is addressed on a wider scale, the trend toward increased use of handguns in felony offenses will probably continue.

I. BACKGROUND CHECK

After selecting a handgun from an authorized dealer, the applicant obtains a Bureau approved form from the dealer which is then brought to the Licenses & Permits Office. The applicant completes the form, is fingerprinted, and pays a $25.00 investigation fee.

The applicant's fingerprints are checked through the Bureau's Identification Unit and through Georgia Crime Information Center (GCIC). If the applicant has a criminal record, it is verified through the courts and involved police agencies. If needed, contact is made with the Alcohol, Tobacco, & Firearms Bureau of the U.S. Treasury Department.

II. DECISION RULE

Decisions to approve or deny are based on guidelines set out by City Ordinance Section 17-4002(b). Denial is effected if:

1. Applicant has been convicted of any crime of violence within the past five (5) years (including misdemeanors);

2. Applicant has been convicted with any felony related to firearms, sex, alcohol, or drug offenses within the past five (5) years;

3. Applicant was found guilty of the violation of any law governing the use of firearms within the past five (5) years;

4. Applicant is presently a fugitive from justice from any police jurisdiction within the United States; and

5. Applicant is presently suffering from any mental illness or has been treated for any mental illness within the past 10 years. If so, the location of the hospital or mental institution providing such treatment.

Additionally, the staff is instructed to observe for evidence of being distraught, unusual nervousness, intoxication, impatience, or hostility while the applicant files for approval to purchase. These observations generally indicate an applicant who may wish to obtain a firearm immediately for unlawful purposes.

III. WAITING PERIOD

There is a fifteen day waiting period for investigation of handgun purchase permits. However, if the applicant has been approved to carry a weapon and has a current license, his application to purchase a firearm is approved pending the receipt of any derogatory information via fingerprints and GCIC. Every effort is made to expedite applications within the fifteen day period.

Our primary concern is that the general public is protected from individuals who are potentially dangerous.

Mr. LAMAR SMITH. Let me, if I may, and with quick agreement, is that information going to be able to get to the subcommittee and to me within, say, 2 weeks?

From the audience. Yes, sir.

Mr. LAMAR SMITH. OK, thank you.

Thank you, Mr. Chairman.

Mr. HUGHES. I thank the gentleman from Texas.

The gentleman from Kentucky.

Mr. MAZZOLI. Thank you very much, Mr. Chairman, and welcome to our witnesses.

Let me ask both of you, just from a nuts and bolts standpoint, how this 7-day period would work. I have read the bill and I am a co-signatory to the bill because it does seem logical that if we can interrupt the emotional flow of this thing you could possibly interrupt a killing.

But at the same time, I don't think any of us wants to put out a huge paperwork machine that is going to inundate you and other law enforcement agencies and create huge bureaucracies and not really get to the heart of the problem, which is the people who shouldn't have them.

So, Chief, or Mr. Pagano, if you could tell me—maybe using the New Jersey experience, how would you premise that Kentucky, which has no waiting period, and other States, would set up locally to handle this activity?

Mr. PAGANO. Virtually every State feeds through to the Federal level by way of a State level authority. Sometimes it's in the State Police, sometimes it's in other agencies. But it is a system that is intended to clear through Federal level all fingerprint applications and all background applications. In many cases it would take more than 7 days, and I think that is an admission that is clear on its face.

But I would perceive the application being made locally, feeding through the State to the Fed and back down. There are ways now that you can expedite that. There are devices by which you can modify the bureaucracy, so to speak—and I think we have done that by bifurcating the purchase requirement—at least for New Jersey—as far as longarms and handguns are concerned.

Mr. MAZZOLI. I notice on page 3 of the bill, it doesn't seem like it calls for any fingerprints. It calls for name, address, date of birth, a statement that the Federal law does not prohibit the purchase, and the date that the statement is made. That would be sent to whom?

Mr. PAGANO. That, I am sure, would clear through the local agency and be sent forward to the Fed—now——

Mr. MAZZOLI. Which means the local police department, is that what you mean by the local agency?

Mr. PAGANO. Yes.

Mr. MAZZOLI. May I ask the chairman a question? Does that as contemplated go through the police department?

Mr. HUGHES. Will the gentleman yield to me?

Mr. MAZZOLI. Yes.

Mr. HUGHES. That would be sent to the local law enforcement agency—the State and local office.

Mr. MAZZOLI. And currently that is not being done, which means that you do have to hire people. It is contemplated that this means new personnel; is that probably correct?

Mr. PAGANO. Well, not—we have those people in place.

Mr. MAZZOLI. In New Jersey you have them because you have a program and have had since the middle 1960s.

Mr. PAGANO. 1966.

Mr. MAZZOLI. In States that don't have that—Chief, would you have any idea of what would be contemplated here?

Mr. NAPPER. No, I really don't.

As I indicated, you know, we have a system in place in the City of Atlanta.

Mr. MAZZOLI. Right.

Mr. NAPPER. As far as I know, the City of Atlanta is the only city, or jurisdiction, in the State of Georgia that has a waiting period.

Excuse me, Columbus, Georgia has one as well.

Mr. MAZZOLI. OK.

Mr. NAPPER. But I would not know what a State would have to do to respond to this bill.

Mr. MAZZOLI. Taking Atlanta as the case in point, then, all applications go to some—is this the chief of police, or the Atlanta city police, or is it the Fulton County Police, or what?

Mr. NAPPER. No, the city. The city police.

Mr. MAZZOLI. The city police?

Mr. NAPPER. Yes.

Mr. MAZZOLI. And they process—do you have a 7-day period or is it as you need the time——

Mr. NAPPER. It is a 15-day waiting period.

Mr. MAZZOLI. Fifteen-day waiting period.

Mr. NAPPER. Yes. And fingerprinting is a part of that process.

Mr. MAZZOLI. It is a part of your process?

Mr. NAPPER. Yes.

Mr. MAZZOLI. So do you actually follow up to find out if the individual is living at a certain address? Do you just check a phone book? Just curiously, what do you do?

Mr. NAPPER. We check with the State Crime Information Center to see if there is any record of that individual having committed any crimes—especially if the person is a resident of the State. It is much easier for us to move expeditiously with that kind of applicant than if someone was coming to Atlanta from outside the city or the State and has not been there very long. That normally takes a longer period of time because we have to maybe make phone calls to locations where he has indicated he lives, or once lived—so it is a little bit more complicated.

Mr. MAZZOLI. Is there a certain schedule of what you do first? In other words, do you set up a certain set of priorities—you look at some things first and if they check out, you don't look further? Or if they don't check out, then you do look further?

Mr. NAPPER. I am sure that is the case but I can't speak to the specifics of that process.

Mr. MAZZOLI. Colonel Pagano, could you tell me, based on your experience, whether or not there's a certain series of cuts—you take a look at something first and if it checks out OK, you don't go

further; or are there certain things that you always do to every applicant, but that you do something more to certain applicants?

Mr. PAGANO. Sure, dependent upon what the initial in question may be, you would look further.

Mr. MAZZOLI. What do you look at first, just out of curiosity? What I am trying to get at is, what do you look at first when an application comes in? What is your first step.

Mr. PAGANO. The first step, really, is to fingerprint. The fingerprint is the basic step. Beyond that we go to our own records and begin looking at the name checks.

Mr. MAZZOLI. But you do the fingerprint check through the FBI's system?

Mr. PAGANO. No, through our own system first and then through the—well, it would go basically to our own system and then to what we call the Triple I system, which——

Mr. MAZZOLI. Whose fingerprints are in your file? New Jersey's file?

Mr. PAGANO. Any offender who has been arrested by a State, local or county agency within the State.

Mr. MAZZOLI. If I were in New Jersey and I am law-abiding, my fingerprints would not be in your record?

Mr. PAGANO. No, they would not, sir.

Mr. MAZZOLI. Even though I might have been a judge, or a lawyer, cleared for something?

Mr. PAGANO. They necessarily could be in there as an applicant.

Mr. MAZZOLI. You mean an applicant's fingerprints are then kept in that file?

Mr. PAGANO. That's correct. But all that would tell us is that you are a lawyer, you are a taxi driver. They don't in any way impose a disability as far as the issuance of a firearm.

Mr. MAZZOLI. You applied for a firearm and was cleared to get a firearm, do those fingerprints stay in your system?

Mr. PAGANO. No, they are returned—I can't answer the question. I don't believe they are.

Mr. MAZZOLI. So essentially, then, you check the fingerprints first with your files; and if they check correctly, then you still send them on to the FBI to get the national work; is that the idea?

Mr. PAGANO. We go to the Triple I next.

Mr. MAZZOLI. Triple I next.

Mr. PAGANO. That's the Interstate Information Index, which is a system, part of the Federal system, and then on into the FBI file.

Mr. MAZZOLI. And how, as an average, how quickly do you get back the data from the FBI?

Mr. PAGANO. I would say within 24 days. I think that's the turnaround time now.

Mr. MAZZOLI. A person who wants to buy a handgun in New Jersey has to wait the better part of a month if everything is pretty clean?

Mr. PAGANO. If it is an initial purchase, we have, by interpretation, a cut of the fingerprints requirement from the act if you have more than one application within a given year. We only look at our own alphabetical——

Mr. MAZZOLI. My time is about to expire.

I didn't want to persist in this point, but while theoretically a lot of these programs do sound very good, and they have logic to them, and they have seemingly the opportunity, or afford the opportunity of curtailment of crime, they sometimes become so bogged down in minutia and detail that they just become unwieldy and burdensome, and then eventually they just kind of die of their own weight.

So, whatever system we set up, or is set up, it seems to me has to be swift, and fairly certain—perhaps not perfectly certain, but fairly certain—but certainly bereft of all of the baggage which so many of these programs bring with them.

So I would love very much to hear from you all, from your people, on just exactly how you would set up a streamlined system—if this bill is ever to become law—that would not bog the law enforcement agencies down with an incredible amount of paperwork which just leaves everybody weary and doesn't catch the people. And, secondly, which is at the same time effective in trying to ferret out those who ought not to have handguns.

Mr. PAGANO. You make a very important point, because every system has to be administered. We have seen many instances that during the period 1966 to date where, for instance, the Federal system has broken down. But we have the latitude within the New Jersey act to cut from the system the Federal requirement—and we have done that, because the citizen should not be waiting longer than necessary.

Mr. MAZZOLI. Thank you.

Mr. Chairman, I thank you for your indulgence.

Mr. HUGHES. Thank you.

Just a couple quick questions.

Mayor Holland, you indicate in your statement that the Conference of Mayors have made the strongest possible stand against handgun violence and in support of legislation before us, and have done so for a number of decades.

Does that represent the overwhelming sentiment of the Conference of Mayors?

Mr. HOLLAND. Yes, it does. And I think it is important to note that you will find at our level that there's regular disagreement on issues between whoever's mayor and whoever's at the head of—in New Jersey it's the PBA, Patrolmen's Benevolent Association—but we agree on this.

Mr. HUGHES. You have rural mayors, you have urban mayors, you have the full range of cities represented by the Conference of Mayors.

Mr. HOLLAND. Yes, in order to be a member of the United States Conference of Mayors, one must be mayor of his municipality of at least 30,000 in population. So we do not speak for municipalities below 30,000.

Mr. HUGHES. But is it the sentiment of——

Mr. HOLLAND. From what I gather. I've been a Vice President of the New Jersey League of Municipalities; I am on the Advisory Council of the National League of Cities, which represents some 14,000 jurisdictions, and has State leagues in almost every State in the Nation.

My recollection of NLC policy is that it is similar to USCM.

Mr. HUGHES. Colonel and Commissioner, if we had the ideal waiting period and record check we'd use fingerprints. That may not be politically achievable, and that might not be desirable by this subcommittee.

So I ask you, rhetorically, why should we pass any waiting period? What good would it do if all we rely upon is a name check?

Mr. PAGANO. I think the term itself—it gives you the answer. It gives people time to cool off. When you get beyond all the constitutional questions, when you get beyond all the legal questions, when you get right down to ground zero, it is a policeman advising a gun dealer to let the guy cool down a little bit.

Mr. HUGHES. How about if I accept that—and I do—that it does provide a cooling-off period. Of what value, however, is it to the law enforcement community just to have the ability to run a name check, or an address check, or an arrest record?

Mr. PAGANO. It is absolutely important to us, and we can do a lot within the 7 days. When we only have 7 days, we will do what we can do reasonably within the 7 days—so people will slip through. If we don't have the optimum, so be it.

Mr. HUGHES. What types of identifiers would you recommend for such a check?

Mr. PAGANO. The basic identifiers would be a driver's license, a social security card, any sort of card or identifier that that person would have acquired during a lifetime, that would have required some inquiry into his background.

Mr. HUGHES. Presumed name, address, of course, that's all part of the driver's license.

Mr. PAGANO. Sure, all that—your school records, your birth records; a record that showed that you were a member of a Boy Scout Troop in a given community from date to date, whatever. It all becomes important when you put together the logic in the officer's mind checking the person through.

Mr. HUGHES. Let me ask you. In the smaller communities, law enforcement generally knows about individuals within the community. If they have had problems with the law, they are aware of that fact. If people have mental histories, in many instances the local police are aware of that.

Is that of any assistance to know that some individual has made an application for a handgun purchase?

Mr. PAGANO. The truth of the matter is, Mr. Hughes, in the smaller communities especially, as the person comes in to make application, he is probably told right then and there, why are you here? We know your background—and it's settled without ever putting pen to paper. Sure it's of value.

The local law enforcement officer knows the people in his community. He knows where the complaints come from. He knows the problems he's had.

Mr. HUGHES. Any other questions of this panel?

Mr. HOLLAND. Mr. Chairman.

Mr. HUGHES. Mayor.

Mr. HOLLAND. On the point you had raised about agreement at the local level, I think it is important to note that—I mentioned the PBA—but there is also support from the Fraternal Order of Police, the FOP, the International Brotherhood of Police Officers—

IBPO—the Organization of Black Law Enforcement Officers—the OBLE—the American Jewish Congress, American Academy of Pediatrics—there is almost universal agreement on this.

Mr. HUGHES. Thank you.

Mr. LAMAR SMITH. Mr. Chairman, do we have time for one question?

Mr. HUGHES. The gentleman from Texas.

Mr. LAMAR SMITH. Mr. Chairman, in the interest of time, what I would like to do is have permission to have a letter entered into the record. And since we've been talking about police, and in regard to my questions a while ago to Commissioner Napper, let me read a couple of paragraphs from this letter that I received from the National Association of Chiefs of Police.

"Last year this Association polled 18,000 chiefs of police and 3,000 county sheriffs. Sixty-five percent of the chiefs felt that the 7-day waiting period would not reduce violence in the community."

And the last paragraph to read to you all is, "It is our policy to poll and then make this information available. We did attempt to testify on the results of this poll to the subcommittee but it was already 'booked up' so we doubt anyone knows the results."

I think those results are of interest to us. Commissioner Napper, although I don't know how many people responded to your poll, my guess is it was substantially less than the 18,000 chiefs of police and 3,000 county sheriffs regarding this questionnaire that I have just mentioned.

Thank you.

Thank you, Mr. Chairman.

Mr. HUGHES. Does the gentleman want to offer that for the record?

Mr. LAMAR SMITH. Yes.

Mr. HUGHES. Without objection, so ordered.

[The letter follows:]

#5

1000 Connecticut Ave N.W
Suite 9
Washington, D C. 20036
(202) 293-9088

National Association of Chiefs of Police

NATIONAL PRESIDENT
Chief Robert Ferguson (Ret.)
Bath TWP, OH
1st VICE PRESIDENT
Lt. Col. Ian M. Shipley, Jr.
Chesapeake, VA
2nd VICE PRESIDENT
Chief Ramon F. Drahobl
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INTERNATIONAL LIAISON
Coroner William B. Smith, Jr.
Moncks Corner, SC
CAMPUS POLICE
Chief Donnie Garrison
Itawamba Jr. College, MS
SECURITY
William A. Sharp
New York, NY

January 20th, 1988

Rep Lamar Smith
House/Representatives
Washington DC 20515

Dear Rep Smith:

RE: Handgun Violence Prevention Act of 1987.

Last year this association sent a poll to 18,000 Chiefs of Police and 3,000 county sheriffs regarding pending questions dealing with firearms, drugs, and other matters of law enforcement. A copy of this poll taken last year is enclosed.

We have enclosed the exact wording to the questions that we think may be of interest to you regarding not only the above pending legislation but some other matters that just reflect opinion.

It is our policy to poll and then make this information available. We did attempt to testify on the results of this Poll to the Committee but it was already "booked up", so we doubt anyone knows the results.

65% of the chiefs felt that the 7 day waiting period would NOT reduce violence in the community. They were very concerned that they would be sued (69%) because the act requires them to approve after 7 days. An imoossible task.

There is no funding for police to do this screening. So, if passed, it is possible that millions of transactions would be added to the budget of police agencies, which are already stretched thin. In our opinion this may cause fewer officers to be on the street, and therefore a detrement to fighting crime.

We all want to save lives. However, we sure wish that you folks on the Hill would consider the long range effect on manpower. The fact is, that 1 out of every 20 officers will be sued this year in civil court. You might be adding a burden already costly, without providing protection nor the millions of dollars needed to carry out these laws.

Sincerely,

Robert Ferguson
ROBERT FERGUSON
President

National Association of Chiefs of Police
1000 Connecticut Ave. N.W., Suite 9
Washington, D.C., 20036
(202)-293-9088

THIS POLL WAS CONDUCTED BY MAIL. IT WAS SENT TO *18,000* CHIEFS OF POLICE AND *3,100* COUNTY SHERIFFS. IT REFLECTS A CROSS SECTION OF *6%* RETURN WITH KEY QUESTIONS ASKED FROM PREVIOUS YEARS. THESE REFLECT THE SAME RESPONSE FROM THE LAST TWO POLLS.

1. **Handgun Violence Prevention Act of 1987.** This act proposes that any person (dealer or non-dealer) in order to transfer a handgun, must notify the chief law enforcement officer of that sale or gift within 24 hours. The chief law enforcement officer has 7 days to verify that the buyer is not a criminal, not mentally incompetent, that the type of gun, serial number, name of owner, address, date of birth in a sworn statement of fact be submitted. (The chief law enforcement officers shall, after 60 days, destroy the copy of that transaction.) That it is the duty of the chief of police or sheriff to state that the applicant is qualified under the law in that 7 day waiting period to own a handgun and it then may be sold.

Part A

Do you believe that the proposed Federal 7 Day Waiting Period that will require the chief of police or sheriff of each community to certify the applicant is qualified to own a firearm is needed to help reduce violence in your community?

65% answered NO.

Part B

Would you feel that the chief law enforcement officer (or whoever you may so designate) might be sued, if at a later time the approved applicant then used the firearm in a criminal or violent act?

69% answered YES.

2. Do you feel that handgun ownership should be banned to all law-abiding citizens who are of good repute and wish to own a firearm for sport or self-defense?

95% answered NO.

3. Would you like to have a state wide law in all states that allows any peace officer duly qualified and sworn to be able to carry a concealed weapon on or off duty nationwide for lawmen only?

93% answered YES.

4. The **Second Amendment** provides the right of citizens "to bear arms" but also includes the word Militia. 200 years ago that could be any male over 16 who could be called to arms to protect his community. Now, 200 years later, do you believe it is still the right of every citizen to "bear arms" even though we have police and the National Guard? Is our inability to protect our citizens at all times still reason enough to need armed citizens to help protect their own business, home, family and lives?

92% answered YES.

5. Would you agree with the report of the **Justice Department** that criminals obtain the vast majority of weapons by theft or from illegal sources rather than the outright purchase from licensed firearms dealers?

94% answered YES.

6. Do you believe that banning of ownership of firearms in any community will result in fewer crimes from handguns?

94.6% answered NO.

(over)

7. Kennesaw, GA., passed a local law requiring its citizens to be armed. Would you agree with similar laws in your community?

85% answered NO.

8. Would you agree that communities that have banned ownership of firearms have increased the opportunity of armed criminals to enter that community knowing it was against the law to own a firearm?

84.5% answered YES.

9. The Congress has before it a bill to increase line of duty death benefits to $100,000. Would you agree that public safety officers families' are entitled to this increase (after 10 years) at this new level?

99.3% answered YES.

10. In the Fall of 1986, the Department of Justice Agency, which administers the trust fund to pay death benefits, testified against passing the above Bill. Every police and fire organization testified in its favor. Do you think that the Department of Justice was justified in preventing the passage of this help to police families?

97.6% answered NO.

11. Do you agree that violence on TV has contributed to increased crime generally, and increased deaths of police officers?

75% answered YES.

12. Do you agree that anyone who kills a police officer or correctional officer should be executed after conviction and appeals?

95% answered YES.

13. Do you feel the media has the right to follow and report the private life of elected officials or those seeking election?

54% answered NO.

14. Do you think all law enforcement officers should be tested regularly for the use of drugs?

69% answered YES.

15. Has the Miranda warning (rights of persons arrested) prevented you from day to day criminal investigations?

66% answered NO.

16. There are more street drugs at lower prices entering the United States at this time. Do you agree that any persons convicted of drug dealing should be sent to a prison at hard labor, in a remote desert prison, where they shall serve a full sentence. Would this help reduce drug dealing?

82% answered YES.

17. Do you consider the courts too soft on criminals in general?

97% answered YES.

Mr. HUGHES. Gentlemen, thank you very much, you have been very helpful to us.

Mr. HOLLAND. Thank you, Mr. Chairman.

Mr. PAGANO. Thank you.

Mr. HUGHES. We appreciate your giving us your time.

The second panel this morning is the Honorable Peter F. Vaira, a partner in the Philadelphia law firm of Fox, Rothschild, O'Brien & Frankel, and a member of the Council of the Criminal Justice Section of the American Bar Association. He is appearing on behalf of Robert McCrate, the President of the ABA.

Mr. Vaira, before joining Fox, Rothschild in 1983, served in the United States Department of Justice for some 15 years. He was the attorney in charge of the Philadelphia and Chicago strike forces on organized crime. In 1978, he was appointed by President Jimmy Carter to be the United States Attorney for the Eastern District of Pennsylvania—a position he held for some 5 years.

Our second panel member is Al Bilik, who has just been elected the President of the Public Employee Department of AFL-CIO. He is representing some 32 international unions with a combined membership of some four million public employees.

For over 30 years, Mr. Bilik has worked for the American Federation of State, County, and Municipal Employees, including 6 years as the Deputy Director of the AFSCME District Council 37 in New York.

He served as the President of the Cincinnati AFL-CIO Labor Council for some 6 years. He also served as the Executive Director of AFSCME's Cincinnati District Council.

Mr. Bilik has a master's degree in political science from Columbia University.

Our third witness is James S. Todd, the Senior Deputy Executive Vice President of the American Medical Association—the number two operational position at AMA.

He is accompanied by David Heidorn of the AMA Division of Legislative Activities. They are accompanied by Dr. Kenneth L. DeHart, chairman of the Government Affairs Committee of the American College of Emergency Physicians, who practices emergency medicine in Myrtle Beach, South Carolina.

Gentlemen, we welcome you here today. We appreciate your coming—and in some instances, very long distances to be with us.

We have your statements which, without objection, will be made a part of the record in full, and we hope that you can summarize—as you may have heard earlier. We would like you to keep your comments to 5 minutes, or less if you could, so we can get right into questions.

Why don't we begin with you first, Mr. Vaira. Welcome.

TESTIMONY OF PETER F. VAIRA, PARTNER, LAW FIRM OF FOX, ROTHSCHILD, O'BRIEN & FRANKEL, PHILADELPHIA, PA, AND MEMBER, COUNCIL OF THE AMERICAN BAR ASSOCIATION'S CRIMINAL JUSTICE SECTION, ON BEHALF OF THE AMERICAN BAR ASSOCIATION; AL BILIK, PRESIDENT, PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO; AND JAMES S. TODD, M.D., SENIOR DEPUTY EXECUTIVE VICE PRESIDENT, AMERICAN MEDICAL ASSOCIATION, ACCOMPANIED BY DAVID HEIDORN, DIVISION OF LEGISLATIVE ACTIVITIES, AMA, AND KENNETH L. DeHART, M.D., CHAIRMAN, GOVERNMENT AFFAIRS COMMITTEE, AMERICAN COLLEGE OF EMERGENCY PHYSICIANS, ON BEHALF OF THE AMERICAN MEDICAL ASSOCIATION

Mr. VAIRA. Thank you very much, sir. I will take your admonition—I don't like reading statements anyway—and my statement goes into the record. I am appearing on behalf of the American Bar Association.

In quick summary, the American Bar Association is in favor of this waiting period. The waiting period is not that long. It is not a burden on the rightful possession of firearms.

I would like now to depart from my statement and give you some comments of my own.

As you pointed out, I was a law enforcement officer for 15 years in the Federal system and worked extensively with the FBI, ATF, and the persons who enforce the laws; and also a great deal with the local law enforcement people—the chiefs of police of both Chicago and Philadelphia.

Since this is an information gathering subcommittee, I want to give you some points of where I think this bill ought to be changed a bit if it is going to have any teeth. I think everyone who has come up here—at least the first two panels—are in favor of a waiting period and the notification.

But I think that notifying the local authorities alone is just not sufficient. It might be OK in Allegheny County in western Pennsylvania where I come from, but if you go to the City of Philadelphia—giant metropolitan areas which are heavy crime areas, notification to the locals will simply break down; they just won't be able to handle it. However, that's not a reason to drop it.

However, I think if this is a Federal bill it ought to go further. Notification ought to go to the people in charge of enforcing the gun laws—the Bureau of Alcohol, Tobacco and Firearms. That's their job. They are the ones that ought to hear about it.

In one of the bills you have here that you notified the FBI. That's fine—except that the FBI's not in charge of enforcing the gun laws. They are peace officers, but they are certainly not in charge of that.

I give you examples just as illustration. After the task force in 1981—the Attorney General's task force reviewing the gun laws, going after persons in possession of firearms. When I was the U.S. Attorney, I started a task force. I went to the District Attorney and the Chief of Police of Philadelphia. Every night in Philadelphia, the police officers pick up guns. I can't give you how many—but numerous guns; guns not involved in an actual shootout or an actual commission of a crime, but something suspicious. But they

can only arrest somebody for the possession of a firearm and not for burglary or so forth.

They had so many that those types of prosecutions were worthless—I mean, the local courts deal with such violence anyway, that just the mere possession of a firearm doesn't get much notice. But we do have a Federal act. It's a good act. And if you are a felon in possession of a firearm, it's a 2-year max. And you seem to get higher sentences in Federal court because the Federal court judges don't deal with violence all the time, and that's a serious offense there.

I made a deal with them to send me all of your—what I told the locals—send me all of your gun cases that you won't take. And if they are possession of a firearm by a felon we will try them.

It was very successful, and we did a lot. Since I left office—sir, I can't tell you where that program went. But I am telling you this, that if you are going to have any teeth in this Act, if you are going to make this thing work, I think you have to notify BATF and have BATF handle it.

You asked the question earlier on why aren't they here. Why isn't Treasury here and why isn't Justice here. I will tell you why.

First of all, it doesn't really involve them. There's nothing here that involves them. You said Treasury is supposed to make some guidelines. It doesn't tell the FBI to——

Mr. HUGHES. Mr. Vaira, you are not suggesting to me that BATF isn't here because it doesn't involve them? We asked them to come in and testify.

Mr. VAIRA. If they don't come, I will give you a reason.

Mr. HUGHES. I can assure you that any legislation that comes out of this committee is going to require that the BATF of the Department of the Treasury, is notified.

Mr. VAIRA. Let me go one step further. The American Bar Association in its original position years ago mentioned that they should have it.

I personally think that they might have some political problems. As you know, some years ago, they were almost disbanded.

Mr. HUGHES. Now you are getting warm.

Mr. VAIRA. OK. Now, let me say this. If we want to put some teeth in this bill, we put the watch in their pocket. I will go one step further. If you really want the bill enforced, you give the jurisdiction to the Secret Service. The Secret Service are zealous in enforcing laws like this. They would go after it with a vengeance. And if you are serious about it, I suggest you do that.

That's my comments on how to make this bill more specific.

One other comment. There's some question about who is the chief law enforcement officer—if you are going to notify the chief law enforcement officer. I think that you are going to have to take some testimony on how to more particularize it more. There's some question as to who is the chief law enforcement officer in whatever political jurisdiction it is located.

In summary, I think this is a good law. It's a good step to where we're going, but if you want to put some teeth in it, you must involve, as a matter of course, the Federal people.

Thank you.

Mr. HUGHES. Thank you very much, Mr. Vaira.

[The statement of Mr. Vaira follows:]

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STATEMENT OF

PETER F. VAIRA

ON BEHALF OF THE

AMERICAN BAR ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON CRIME

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

ON THE SUBJECT OF

HANDGUN CONTROL

FEBRUARY 24, 1988

SUMMARY OF

STATEMENT OF PETER F. VAIRA

ON BEHALF OF THE

AMERICAN BAR ASSOCIATION

BEFORE THE SUBCOMMITTEE ON CRIME

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

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FEBRUARY 24, 1988

(1) Legislation providing for a waiting period and background check prior to the purchase of handguns such as provided by H.R. 975 and Section 3 of H.R. 155 is needed to implement previously enacted federal legislation which prohibits sales of handguns to certain categories of ineligible individuals. Signed sworn statements alone, as presently required of those purchasing handguns, are an inadequate safeguard against handgun purchases by individuals legally incompetent to possess or own them. A seven-day or fifteen-day waiting period will assist law enforcement agencies in preventing crime by providing an opportunity for federal or local screening to prevent those who have been convicted of a crime or who are under age or mentally incompetent from purchasing handguns;

(2) A federal response is required to overcome self-defeating inconsistencies between state laws; provision for a waiting period and records check in one state is rendered ineffective by purchase without any check in the next;

(3) Legislation providing for a waiting period and reasonable background check imposes an insignificant burden upon law abiding handgun purchasers.

Mr. Chairman and Members of the Subcommittee,

My name is Peter F. Vaira. I am a member of the Council of the American Bar Association's Criminal Justice Section. I appear today on behalf of the Association at the request of its President, Robert MacCrate.

I served as an attorney in the U. S. Department of Justice for 15 years. During that time, I served as attorney in charge of both the Philadelphia and Chicago strike forces on organized crime. From 1978 through 1983, I was the United States Attorney for the Eastern District of Pennsylvania. I am now a partner in the law firm of Fox, Rothschild, O'Brien & Frankel in Philadelphia, Pennsylvania. I am very pleased to appear today on behalf of the American Bar Association to voice our strong support for the passage of legislation providing for a waiting period and background check before the purchase of handguns, as is proposed in H.R. 975 and in Section 3 of H.R. 155.

The American Bar Association, since 1973, has supported amendments to strengthen the Gun Control Act. It has consistently opposed measures that would loosen restrictions, particularly those dealing with record keeping and the interstate sale of firearms.

As early as 1965, the ABA expressed support for effective legislation to control the importation, sale, possession and transportation of firearms. This position was reaffirmed by the Association in 1973.

In 1975, the ABA House of Delegates adopted a detailed policy on measures necessary to strengthen the Gun Control Act.

It specifically strongly supports Congressional legislation that would require gun dealers to verify through a waiting period and completion of a reasonable investigation made to determine that the applicant is not an individual for whom it is unlawful to receive or possess a handgun, because barred by a prior conviction, age or mental incompetency.

In 1983, the ABA reaffirmed the earlier policy statements and endorsed the strong gun control position recommended by the Section of Criminal Justice Task Force on Crime.

Let me turn now to H.R. 155 and H.R. 975 and the ABA's principal reasons for supporting the waiting periods established under these bills.

I. A Waiting Period Is Necessary to Implement Existing Federal Law

A waiting period should be required for the purchase of a handgun to allow for a records check to ensure that the purchaser is not prohibited from owning a handgun by the Gun Control Act of 1968 or Title VII of the 1968 Omnibus Crime Control and Safe Streets Act. This is simply what H.R. 975 and what Section 3 of H.R. 155 would provide.

A fundamental purpose of the Gun Control Act of 1968 and of the Omnibus Crime Control and Safe Streets Act was to reduce violent crime, including (or by) preventing the possession of handguns by proscribed groups of people. Under those Acts certain categories of individuals are ineligible to receive firearms that have been shipped in interstate commerce. These include:

Fugitives from justice

Persons under federal or state felony indictment

Persons convicted of a federal or state felony

Persons ineligible by state or local law to possess a firearm

Minors, under 18 years of age for rifles and shotguns, and under 21 years of age for handguns

Adjudicated mental defectives or persons committed to a mental institution; mental incompetents

Unlawful users of or addicts to any depressant, stimulant, or narcotic drug

Persons dishonorably discharged from the United States Armed Forces

Former United States citizens

Illegal aliens.

However, these Acts have not resulted in preventing unlawful sales. A person purchasing a firearm from a dealer is required only to sign a form on which he affirms by sworn statement that he is not barred from purchasing a firearm. This signature relieves the dealer from any liability for illegal transfer, as long as he requests and examines a form of purchaser identification, other than a social security card, that "verifies" the purchaser's name, age, and place of residence. There is, at present, no effective method to verify a purchaser's eligibility. Since drug addicts, felons, and mentally disabled persons are not the best risk for "the honor system," a waiting period between the time of signing the presently required form and delivery of the handgun to the purchaser to permit the verification of the purchaser's eligibility is sensible and necessary to effectuate the purposes of the Acts. Dealers should be required to contact law enforcement authorities to allow them to verify a purchaser's eligibility. This requirement may also provide a "cooling off" period for individuals who might otherwise purchase and use a handgun in the heat of passion.

2. A Federal Response is Necessary to keep Handguns from Proscribed Individuals.

The plethora of contradictory state gun laws has made their enforcement ineffective. A waiting period providing for a records check in one locality or state is rendered ineffective where a person barred by federal law from purchasing a handgun can circumvent that

law merely by purchasing it in a neighboring state. There is need for a federal strategy that would provide consistency and uniformity across state boundaries. Federal gun laws have failed to achieve their intended purpose due in part to this unintended loophole and the lack of an adequate enforcement mechanism.

Opponents of this bill argue that legislative controls on criminal purchases of handguns are futile. They maintain that most previously convicted criminals do not obtain the handguns they use in commission of further crimes through legitimate commercial channels. They point to continued recent growth in crimes with guns and single out gun control laws as futile or resulting somehow in more crime. They urge abandonment of efforts to control the purchase of handguns. This is a flawed and dangerous line of argument.

Efforts by some states to screen felons and other inelibible classes of persons from purchasing handguns in fact do show that large numbers of criminals are prevented from obtaining weapons through such background checks. Clearly, limiting access to handguns by those deemed by Congress most likely to misuse them should help reduce their use in violent crimes. The need to address and reduce violent crime itself in the United States is not in doubt, even among the most regimented opponents of this reasonable legislation.

3. The Waiting Period Provisions under H.R. 975 and H.R. 155 would Impose an Insignificant Burden upon Law-Abiding Handgun Purchasers.

Legislation providing for a brief waiting period and a reasonably conducted background investigation, such as proposed in H.R. 975 and H.R. 155, impose an insignificant burden upon law-abiding handgun purchasers. Both bills require a brief waiting period. Both require notification of law enforcement officials to provide an opportunity to conduct a minimal background check to determine whether it is legally permissible for the prospective purchaser to receive and possess the handgun.

H.R. 975 and H.R. 155 will not prevent purchase and ownership of handguns by any law-abiding individual. During consideration of related (similar) bills in prior Congresses, critics have pointed to delays of several months up to a year in some states as a deprivation of rights. Both bills provide for a very short period of delay between application and delivery. One or two weeks is less than delays frequently occurring in the purchase of a wide range of consumer goods, albeit without a governmental purpose. However, in the case of handgun purchases there is a compelling state interest involved--deterring crimes committed with handguns, providing for the public safety and welfare, and preventing loss of life.

Further, H.R. 975 would provide for emergency purchases where the purchaser's life or safety may be in jeopardy.

This background check would be one that is mandated for the Federal Bureau of Investigation under H.R. 155; H.R. 975 would provide information and time to make a background check possible by local and state law enforcement but not mandate this check. H.R. 975 also provides for the destruction of the purchaser's application within sixty days. It does not provide for a permanent record of any kind, as opponents have alleged.

These bills go far to minimize any potential impact on the millions of lawful gun purchasers, while meeting the important public purpose of preventing handgun purchases by those currently proscribed by federal law. The proposal for a short waiting period under either bill does not broaden the limitations on handgun ownership contained in existing law; it simply enables the intent of the law to be fulfilled - an intent that has wide public support. In addition, a waiting period and reasonable background check provision has the overwhelming support of law enforcement officers throughout the country.

Handguns should be kept out of the hands of those who Congress has already determined should not have them. H.R. 975 and Section 3 of H.R. 155 provide a carefully-drawn and limited method to insure Congressional intent will be carried out. These bills deserve your strong support. I want to again thank the Subcommittee for this opportunity to testify and I will be pleased to answer any questions you may have.

Mr. HUGHES. Mr. Bilik, welcome.

Mr. BILIK. Mr. Chairman, my name is Al Bilik, President of the Public Employee Department of the AFL-CIO. This is a department that consists of 32 international unions of the AFL-CIO.

We represent approximately four million public employees at the Federal, State, and local government levels. Included among our members are many thousands of police officers.

Just to add quickly, I am flattered, frankly, to be flanked by representatives of such distinguished organizations as the American Bar Association and the American Medical Association. This is a unique experience for me—I wanted it noted for this opportunity.

Our Public Employee Department convention in September of 1986, followed a month later by the convention of the AFL-CIO, both adopted resolutions urging Federal control of the sale of handguns, specifically for a 7-day waiting period, during which local enforcement officials would be able to do background checks.

We are relative newcomers to this debate, at least in a public sense. But the safety of our own police officer members and of our members generally now pushes us into this arena. We join with the great majority of the American people who have consistently voiced overwhelming support for some form of handgun control. Frontier rules governing handgun purchases haven't changed much since the founding days but, indeed, the weapons the Nation's forefathers thought were necessary to protect us against oppressors now more often than not are used by one set of citizens against another.

We have taken our right to bear arms so seriously that we are literally an armed camp compared with any other developed country on the face of the earth. We lead the world—we don't lead in many categories these days—but we do lead the world by far in murders, armed assaults, armed robberies, and gun-related accidents.

At a time when our Nation is attempting to regain its number one position in the world, surely this is one category in which we should strive to not finish first.

Pollsters have told us consistently—and these figures obviously have been available and there is no need to rehash them—that the majority of American citizens, including the members of our unions in the Public Employee Department, and as indicated by the attached resolution adopted by the AFL-CIO itself, expressing the sentiment of the AFL-CIO and its general membership, that our position is in keeping with what is a large majority view in the Nation. We are aware that police chiefs, law enforcement officials, and others in authority strongly support stricter Federal control. We think their expert opinion in this area should be respected.

Normally, from our standpoint as representing public employees, we have taken a view of the roles of the States and of the Federal Government which has not been fixed in one direction or the other. We have tried to take a reasoned view as representatives of our members about what ought to be the function of the various levels of government. We have looked for balance rather than monopoly for any one sphere. Normally we would look to the States to legislate in the area of safety. For example, in this instance, relatively

few States have chosen to act—some 18 have legislation which requires any background check at all.

We think it is the duty of the Federal Government at some point to intervene at least to the level of providing minimum standards. We are not suggesting that all the efforts of the States as laboratories in this very noble experiment be discarded or set aside; but that we learn from what they have done, where they have done it, and then move in, because it is in the interest of the society generally, with some basic standards—not to overwhelm, but to simply set floors whereby all the States would have some kind of a basic or a level playing field in what is truly a deadly business.

So we do recognize that H.R. 975 proposes merely to require a 7-day waiting period before the sale, delivery or transfer of a handgun, and we do support that.

I might add that one incident that occurred during the AFL-CIO convention in late October in Florida, which I think was alluded to earlier, where a distraught investor entered a brokerage office and killed one of the brokers—using a handgun, of course.

Mr. HUGHES. Can you conclude in about 30 seconds? Your time is up.

Mr. BILIK. That was the kind of incident that impelled us to act, or helped convince the delegates that they ought to adopt that resolution.

I have attached the resolution of the AFL-CIO on Handgun Control, if I may make it a part of the record.

Mr. Chairman, I thank you and the members of the subcommittee.

Mr. HUGHES. Thank you, Mr. Bilik.

[The statement of Mr. Bilik follows:]

Testimony before the

Subcommittee on Crime
of the
House Committee on the Judiciary

In Hearings for the Purpose of Receiving Testimony Concerning
H.R. 155 and H.R. 975

presented
February 24, 1988

by
Al Bilik, President
Public Employee Department, AFL-CIO

Mister Chairman, my name is Al Bilik. I am the president of the Public Employee Department, AFL-CIO, which consists of 32 international unions representing some 4 million public employees at all levels of government in the United States.

Our convention in September, 1987 and the convention of the AFL-CIO in October, 1987 adopted resolutions urging federal control of the sale of handguns.

We join the great majority of the American people who have consistently voiced their overwhelming support for handgun controls. Unfortunately, however, the "frontier rules" governing handgun purchases have not changed much since the early founding days of our nation. Indeed, the weapons that the nation's forefathers thought were necessary to protect against political oppressors now more often than not are used by one set of citizens against another. The U.S. has taken its right to bear arms so seriously that it is literally an armed camp compared with any other developed country on the face of the earth. America leads the world by far in murders, armed assaults, armed robberies, and gun-related accidents. There were 8,460 handgun-related homicides reported in 1986 alone.

At a time when our nation is attempting to regain its number one position in the world, surely, this is one category in which we should strive to <u>not</u> finish first.

Pollster Louis Harris has prepared a summary of polling data on handgun control. The collective findings indicate that, by any measure, the American people are convinced that the sale and use of handguns is out of control -- and tougher laws are in order.

When asked about handgun laws, 60% say they should be made more strict, only 8% say less strict, and 30% say make no change. By a clear-cut 67% to 23%, a sizeable majority of the American people believe the interstate handgun sales ban should be continued. Handgun owners favor the law by 60% to 32%. Another big majority, 70% to 25%, would favor the registration of all handguns. Sentiment for such a federal law has risen since the early part of the decade. There is no significant segment of the population that is opposed to such a handgun registration law.

Police chiefs, law enforcement officials, and other authorities strongly support stricter gun control. Their expert opinion should be respected.

Today we meet to discuss HR 975 which proposes to require a seven day waiting period before the sale, delivery, or transfer of a handgun. In spite of the strange statement that "guns don't kill people - people kill people," the bottom line is that people get killed. And they are often killed by an angry or demented person who quickly purchased a handgun and used it to settle his or her grievance.

In conclusion, Mr. Chairman, the AFL-CIO expresses its support for HR 975. In addition to my testimony I ask that the AFL-CIO resolution on handgun control be included and made a part of the record.

Mr. Chairman, I thank you and the members of the committee for your consideration of the views of our department and the AFL-CIO.

HANDGUN CONTROL

WHEREAS, Our nation's police officers have one of the most dangerous occupations in the country; and

WHEREAS, Deterrence is a crucial element in controlling criminal behavior; and

WHEREAS, There were 8,460 handgun-related homicides reported in 1986 -- down from 10,012 in 1980. The family homicide rate -- the closest statistical approximation to the so-called "crime of passion" -- dropped from 2.4 per 100,000 in 1976 to 1.4 per 100,000 last year, the lowest level recorded since Prohibition. Mandatory penalties for the use of firearms in violent crime are instrumental in deterring crime. Murder and robbery, the crimes generally targeted by mandatory penalties, decreased by 23% and 18% respectively in the 1980s while the rate of imprisonment increased 40% for the same time period. All gun-related predatory crime decreased by 25% during that time, while handgun availability rose by 17%; and

WHEREAS, Restrictions on the sale of handguns are favored by 60% of the American people according to a 1986 Gallup poll; therefore, be it

RESOLVED: The AFL-CIO shall support legislation which will strengthen our nation's laws designed to keep handguns out of the hands of criminals and the mentally unbalanced; and, be it further

RESOLVED: The AFL-CIO shall support the passage of federal legislation to establish a seven-day waiting period on the purchase of all handguns; and be it further

RESOLVED: The AFL-CIO shall support legislation to impose swift and severe punishment on those who use handguns to commit crimes.

Adopted by the AFL-CIO Convention in Miami, Florida, October, 1987.

Biographical Sketch

Al Bilik

President

Public Employee Department, AFL-CIO

Before taking on his current post in February, 1988, Al Bilik served as Executive Director of the Public Employee Department's State/Local Division. His career includes more than 30 years of service with the American Federation of State, County and Municipal Employees, highlighted by his six year stint as Deputy Director of AFSCME District Council 37 in New York. From 1976 until 1979 he served as Director of Organizing for the AFL-CIO's International Union of Electrical, Radio and Machine Workers (IUE). Prior to that, Bilik spent 25 years with AFSCME in a series of staff positions, including Assistant to the International President for Organizing and Executive Director of the AFSCME Cincinnati District Council. He also was elected President of the Cincinnati AFL-CIO Labor Council and served in that post for six years.

Bilik has a Master's Degree in Political Science from Columbia University and is the author of several articles on labor affairs. He served for four years as an enlisted man in the U.S. Navy during World War II.

He and his wife and son reside in Washington, D.C.

Mr. HUGHES. Dr. Todd, welcome.

Dr. TODD. Thank you, Mr. Chairman, and members of the subcommittee. We appreciate the opportunity to appear before you and discuss this most important subject.

We are here today, however, not as experts on crime or firearms, but as members of the medical profession whose duty it is to preserve and maintain human life and restore health to those who have been sick and injured.

Ultimately, it is the physician who is called upon to treat the injuries resulting from handgun use or abuse, to respond rapidly to the traumatized patient, and to conduct autopsies in cases of firearm-related deaths.

In acceptance and in accordance with this unique responsibility and because of our increasing concerns over the number of injuries, the AMA's House of Delegates in December of 1987 adopted a position in support of legislation that would enforce a waiting period and background check for all handgun purchasers—legislation that the American College of Emergency Physicians also favors. The AMA additionally also supports legislation to ban firearms made of plastic or other nonmetallic materials.

While this testimony was being prepared, an article appeared in the Chicago Sun Times describing how a woman allegedly gunned down her ex-boyfriend in the lobby of the Midwest Stock Exchange. She had purchased the gun she used only hours before that incident.

It is not our contention that a national waiting period and background check for the transfer of a handgun would necessarily have saved this individual's life. Statistics do not conclusively show that a waiting period alone is effective, but they do, however, support the contention that an incident of this kind would be less likely to occur were a waiting period with a background check mandated.

Children, too, are often the victims of unintended firearms violence. One study rank gun accidents as the fifth leading cause of death in young children. Another study has concluded that unintentionally deaths of friends and family members in the home were up to six times more common than the shootings of criminals.

Physicians are also concerned about the role firearms play in suicides since medical conditions, depression and alcoholism, are reported to be the major reasons why people take their lives. More than half of the suicides in this country are committed with firearms and a very significant proportion include young people and the elderly.

Physicians treating depressed or potential suicide patients have been urged to inquire about and to prevent access to weapons.

A need exists for a concerted effort to make sure that handguns and other firearms are not taken lightly, that they can be kept out of the hands of children, and that those who are in any calculable way a threat to the well-being of others or themselves, not be allowed to possess a weapon—especially a handgun.

While a national waiting period and background check for handgun transfers may not be the entire answer, it certainly is a good start in trying to limit the firearm-related pain and suffering that physicians see every day in emergency departments all across this country.

Even worse to us is a weapon manufacturer's apparent ability to produce handguns made of plastic and other nonmetallic metals that will make them undetectable on airport security devices.

Why this is necessary or worthwhile escapes us. And physicians are particularly concerned with the threat of plastic guns to children and others in the home. The distinction between real and toy guns will become immeasurably more difficult to children when real guns are also made of plastic, are also lightweight, and may be injection-molded in any color.

It is ironic to us that while some municipalities have banned or are considering banning real-looking toy guns, weapons manufacturers are working to make real guns look like toys.

In conclusion, the legislation being considered by this subcommittee is a right step toward limiting the threat of needless firearm violence. The AMA and the American College of Emergency Physicians also support greater education to encourage more responsible use and storage of weapons, enlarged Federal research programs to study the effects of firearm-related violence, greater regulation of the interstate traffic of all firearms, and improvements in the designs of firearms to make them as distinctive and safe as possible.

Mr. Chairman, even more compelling than statistics is the unfortunate reality of our own medical experience which has shown us the havoc that firearms and handguns, in particular, have wreaked upon families and communities.

To help you share in this perspective, I would ask Dr. DeHart, who is in the active practice of emergency medicine, to relay some of his and his colleagues' experiences in treating the victims of firearms.

Thank you, sir.

Mr. HUGHES. Thank you, Doctor.

[The statement of Mr. Todd follows:]

Statement of the American Medical Association

to the

Crime Subcommittee of the
House Judiciary Committee

Presented by
James S. Todd, M.D.

RE: Establishing a National Waiting Period for Handgun Purchasers and Banning Non-Metallic Firearms

February 24, 1988

American Medical Association
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Department of Federal Legislation
Division of Legislative Activities
(312) 645-4775

STATEMENT

of the

AMERICAN MEDICAL ASSOCIATION

to the

Crime Subcommittee of the
House Judiciary Committee

Presented by
James S. Todd, M.D.

RE: Establishing a National Waiting
Period for Handgun Purchasers and
Banning Non-Metallic Firearms

February 24, 1988

Mr. Chairman and Members of the Subcommittee:

My name is James S. Todd, M.D., and I am Senior Deputy Executive Vice President of the American Medical Association. With me is David Heidorn of the Association's Division of Legislative Activities. We are joined by Kenneth L. DeHart, M.D. Dr. DeHart is Chairman of the Government Affairs Committee of the American College of Emergency Physicians, and he is in the practice of emergency medicine in Myrtle Beach, South Carolina.

We are here today not as experts on firearms or crime, but as members of the medical profession with the sworn duty to preserve and maintain human life and restore health to those who are sick and injured.

Ultimately, it is the physician who is called upon to treat injuries resulting from handgun use, to respond rapidly to the traumatized patient, and to conduct autopsies in cases of firearm-related death.

In accordance with this unique responsibility, the American Medical Association's House of Delegates in December 1987 adopted a position in support of legislation that would enforce a waiting period and background check for all handgun purchasers and legislation to prohibit the manufacture, sale, or import of firearms made of plastic, ceramics, or other non-metallic materials that cannot be detected by airport and weapon detection devices. The objectives of the two bills being considered by this Subcommittee -- H.R. 975 and H.R. 155 -- are consistent with the position adopted by the AMA's House of Delegates.

Waiting Period for Handgun Purchasers

The following is the lead paragraph of an article that appeared in the Chicago Sun-Times on February 18, at the time this testimony was being prepared:

> A woman accused of gunning down her ex-boyfriend in the lobby of the Midwest Stock Exchange had purchased a gun for $65 only hours before a prearranged meeting with the man, prosecutors said Wednesday.

It is not our contention that the enactment of a national waiting period and background check for the transfer of a handgun would have necessarily saved this individual's life. Statistics do not conclusively show that a waiting period alone is effective in limiting the use of

handguns to kill or injure human beings. In addition, Illinois law already requires a 72-hour waiting period, although no background check is required. Statistics do, however, support the contention that this kind of incident would be less likely to occur were a waiting period with a background check mandated across the nation.

This Subcommittee is surely aware of the variety of statistics and depth of studies indicating the great risk to the health of Americans that handguns pose, yet they bear repeating. A report adopted by the AMA's House of Delegates in December 1987 (a copy of which is submitted) details many of these facts.

Nationwide, firearms account for 58% of all homicides and 57% of all suicides. Moreover, high rates of firearm homicides, suicides, and unintentional deaths correlate with high regional or local rates of gun ownership. Recent data from the Federal Bureau of Investigation indicate that in 1985, 73.3% of all murders committed with a firearm were committed with a handgun. It is clear that this health risk is a primary one. In 1983, firearms ranked among the twelve leading causes of death in the United States. Among the causes for accidental death, firearm accidents have been ranked among the top ten.

One of the more grievous aspects of firearm violence is the fact that children are far too often the victims. One study ranks gun accidents as the fifth leading cause of death in young children. Most unintentional firearm deaths among children younger than fifteen years are traced to loaded and unlocked weapons used in play. One study of such deaths in

California found that they represented 64% of all unintentional firearm deaths in California from 1977 through 1983. The study concluded that unintentional deaths of friends and family members in the home were up to six times more common than shootings of criminals.

Firearms also play a far too important role in suicides, which is another concern of physicians since medical conditions -- depression and chronic alcoholism -- are reported to be the major reasons Americans consider suicide. As of 1982, over 28,000 Americans per year committed suicide. More than half (59%) were committed with firearms, and a very significant proportion included youths and the elderly. Physicians treating depressed or potential suicide patients have been urged to inquire about and to prevent access to weapons.

The role of firearms as a cause of injury is another concern of physicians. While non-fatal firearm injuries are difficult to quantify because few data are available on nonfatal firearm injuries, such injuries are presumed to greatly outnumber firearm deaths. In 1972, the ratio of firearm injuries to deaths was estimated at 5:1. Inadequate government funding can be blamed for much of the lack of data collection in this area.

Some would argue that these figures are irrelevant, that individuals intent on killing or harming others or committing suicide will find other means to accomplish their goals. Consider, however, the findings from a study of 1,639 cases of interpersonal violence in Denmark: 60% of the incidents involving firearms resulted in a death while no more than 7% of incidents involving knives were lethal. Another study asserts that guns

are five times more likely to result in death than knives.

Consider also that residential crimes have been increasing sharply in line with firearms in the home, which may indicate that guns in the hands of home owners do not deter crime. In fact, it is more likely the opposite is true. For example, the 25 accidental deaths from home firearm accidents in Detroit in 1967 exceeded the 23 residential robbers and burglars killed in Detroit over 4 1/2 years.

The picture that the report of the AMA's House of Delegates paints with these statistics is one of a major threat of death and physical injury because of the easy availability of handguns and other firearms in our society. These statistics do not necessarily support a specific legislative solution but the need for a concerted effort to make sure that handguns and other firearms are not taken lightly, that people be given instruction in their use, that they be kept out of the hands of children, and that those who are in any calculable way a threat to the well-being of others or themselves not be allowed to possess a weapon, especially a handgun.

While a national waiting period and background check for handgun transfers may not be the entire answer, it is a good start in trying to limit the firearm-related pain and suffering that physicians see in emergency departments across the country. Clearly, this is a national problem calling for a national solution. At least 70% of the U.S. population is subject to gun purchase or acquisition statutes and 66% is subject to a police check either before or after the purchase of a handgun. However, most of these laws are generally unenforceable because

of a lack of uniformity nationwide and the inability of any state law to halt the interstate transport of arms.

Plastic Handguns

The apparent ability of weapons manufacturers to produce in the very near future handguns made of plastic, ceramic, and other non-metallic materials that will make these weapons undetectable in airport security devices is also of great concern to the AMA. Others can testify to the threat of this development to our national security, a concern the AMA shares. Physicians, however, are particularly concerned with the threat of plastic guns to children and others in the home.

Young children have difficulty differentiating real guns from plastic toy guns. The distinction between real and toy guns will become immeasurably more difficult when real guns are also made of plastic, are also lightweight, and may be injection-molded in any color. It is ironic that while some municipalities have or are considering banning real-looking toy guns, weapons manufacturers are working to make real guns look like toys. Plastic handguns will most likely be marketed as inexpensive, lightweight, easy to carry, and easy to take care of, all of which will promote their greater use and diminish the sense of caution that individuals must have towards guns. We are certain this technological development will result in greater death and injury.

Conclusion

The legislation being considered by this Subcommittee to require a waiting period and background check for all handgun transfers and to ban

the manufacture, import, and transfer of guns made out of non-metallic materials is a right step towards limiting the threat of firearm violence. The AMA also supports greater education to encourage more responsible use and storage of weapons, enlarged federal research programs to study the effects of firearm-related violence, regulation of the interstate traffic of handguns, and improvements in the design of firearms to make them as safe as possible.

America faces a serious health risk from the availability of firearms. As this nation has done with other public health problems, the AMA believes that the risk of firearms and especially handguns can be greatly reduced.

As I previously indicated, it is not the statistics alone that lead us to our position on firearms. Even more compelling is the unfortunate reality of our medical experience that firearms, and handguns in particular, have wreaked havoc among families and communities. To help you share in this perspective, I will ask Dr. DeHart to relay his and his colleagues' experiences in treating the victims of firearms.

3415p

REPORT OF THE COUNCIL ON SCIENTIFIC AFFAIRS

Report: A
(I-87)

Subject: Firearms as a Public Health Problem in the United States: Injuries and Deaths

Presented by: George M. Bohigian, M.D., Chairman

Referred to: Reference Committee E
(Frank B. Walker II, M.D., Chairman)

Substitute Resolution 46 (I-86), adopted in lieu of Resolutions 38, 46 and 123, called for the AMA to review the effectiveness of programs designed to reduce deaths and injuries caused by handguns and to support and promote those educational programs sponsored by nationally funded research organizations that have been demonstrably successful.

INTRODUCTION

"Few health issues in our recent history have engendered as complex and lasting a controversy as that surrounding the prevention of firearm deaths and injuries. Through individual and collective action, health professionals can become a potent force to control this epidemic of modern times."[1] There is unquestionably a need to treat this public health matter with as much urgency as any dread disease.

Precise figures are not available, but there are now perhaps 180 to 200 million firearms in the United States, of which 55 to 60 million are handguns.[2,3] In the wake of the increasing incidence of gun-related violent crimes and accidental and intentional deaths and injuries, laws have been enacted to control and/or discourage private gun ownership and especially to eliminate guns from the hands of the criminals.

Gun-control proponents contend that the increased rates in firearm-related homicide and suicide are related to the increasing availability of firearms. Nationwide, firearms account for 58% of all homicides and 57% of all suicides. Moreover, high rates of firearm homicides, suicides, and unintentional deaths correlate with high regional or local rates of gun ownership.[4] Proponents also contend that guns produce more crime than they prevent. Unfortunately, there is no way of determining how many crimes may

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Past House Action: I-86:395; I-81:229; A-81:221,225,232,237,247; I-79:229; A-74:326;A-73:317; A-72:260, 266.

have been deterred because of civilian gun ownership.[5] (A survey would be possible, using a sampling frame of the National Opinion Research Center at the University of Chicago. [Personal communication, G. Wintemute, MD, August 3, 1987.])

Gun-control opponents argue that such laws are an abrogation of the citizens' rights under the U.S. Constitution to bear arms in peacetime. They also cite data showing that handguns are not a major cause of injuries and death, especially when compared to cardiovascular disease, cancer, diabetes, and accidents caused by automobiles, falls, drowning, and fires. However, data from the table that follows would indicate otherwise. In a recent symposium on the subject of gun control, Kaplan[5] raised a number of questions that bear consideration, for example: What effect would the complete absence of guns have on domestic violence or "predatory crimes"? Would the laws, even if enforced successfully and completely, reduce crimes by those who are the greatest threat to society? If only <u>some</u> firearms were less available, might not criminals turn to unrestricted weapons, such as shotguns and rifles- probably sawed-off for reason of concealability- which are considerably more lethal than handguns? And if entirely deprived of guns, might not assailants use another type of weapon and do as much damage?

Guns--both handguns and long guns- are irrefutably extremely dangerous and are capable of causing unacceptable and unnecessary numbers of injuries and fatalities even when used by responsible persons. If society hopes or intends to reduce the number of firearm-related injuries and deaths significantly, it should be willing at least to remove guns- especially handguns- from the hands of persons who are a threat to society and to remove from society those persons who threaten the public with guns or other lethal weapons. Meanwhile, educating rightful firearms owners and users in the proper handling and storage of their weapons must continue, an action that may help to reduce unnecessary deaths and injuries.

EXTENT AND CONSEQUENCES OF GUN-RELATED CRIME AND VIOLENCE

<u>Death</u>

In 1983, firearms were ranked among the 12 leading causes of death in the United States,[6] and, compared to all other causes of accidental death, firearm accidents ranked among the top ten. Precisely where firearm accidents rank is debatable because of differences in definitions and reporting.[3]

12 Leading Causes of Death in the US, 1983[6]

ALL CAUSES	2,019,201
Heart disease	770,432
Cancer	442,986
Stroke (CV disease)	155,598
ACCIDENTS (all causes)	92,488
Motor vehicle	44,452
Falls	12,024
Drowning	6,353
Fires, burns	5,028
Ingestion of food, other objects	3,387
Firearms	1,696 *
(said to include some 500 handgun and 300 hunting accidents)[3]	
Pneumonia	54,423
Diabetes mellitus	36,246
Suicide (all means)	28,295
Firearms-related	16,600 *
Chronic liver disease, cirrhosis	27,266
Atherosclerosis	26,371
Homicides	19,530
Firearms-related	12,040 *
Perinatal conditions	19,310
Nephritis, nephrosis	18,998
TOTAL FIREARMS-RELATED DEATHS	32,099

*Another 257 deaths were due to legal intervention and 507 were undetermined (ie, either accidental or intentional).

The number of fatal firearm accidents among U.S. civilians, according to the Vital Statistics of the US, 1936-66, held near-steady at approximately 2,200 per year until 1966; the declining rate (from approximately 2.2 per 100,000 to 1.4 per 100,000) was balanced by the increase in population growth. The number of deaths annually increased to 2,400 in 1966 and to 2,900 in 1967. The increase in the number of firearm-related homicides closely paralleled the increase in the number of all homicides from 1962 to 1968.[7]

Kellerman and Reay studied the epidemiology of deaths due to firearms in the home by reviewing all gunshot deaths in Washington state from 1978 to 1983. Of the 743 firearm-related deaths-- 70.5% of which were caused by handguns- 398 (54%) occurred in the home where the firearm was kept, and only 9 of the 398 (2.3%) were justifiable homicides. In other words, for every firearm homicide related to self-protection, there were 1.3 accidental deaths, 4.6 criminal homicides, and 37 suicides.[8]

An analysis of 26,442 firearm deaths among California residents from 1977 through 1983 disclosed that firearms were the number one cause of death for certain groups of people in that state: black males aged 25 to 34 years and females aged 15 to 24 years. Firearms were among the top ten causes of death for the state as a whole; moreover, its firearm homicide, suicide, and unintentional death rates were similar to the median for all states.[1]

In another study,[9] the accidental firearm fatality rate increased threefold in Cuyahoga County, Ohio, from 1967 to 1973. These deaths, which occurred most commonly in those aged 25 to 34, were more frequent in the central city (Cleveland) than in the suburbs, usually took place within the home, and were more prevalent among males, especially nonwhites. About one-half of the adults had been drinking alcohol at the time. The authors of the study were of the opinion that the frequency of fatalities was related to the increase in availability of handguns (one retail dealer is said to have been selling from 30 to 40 handguns per day, seven days a week) and that the presence of the loaded weapon was more likely to cause an accidental death than to kill an intruder (about 41% of the accidental deaths for children up to age 15 were self-inflicted; about 70% of accidental deaths in adults were self-inflicted). [SEE Paulson & Rushforth for similar study covering 1958-82.]

When Rushforth, et al analyzed homicide patterns in Cuyahoga County, Ohio, for 1958-74,[10] the trends noted were consistent with those in other U.S. metropolitan counties, and the increased use of handguns was the factor most consistently associated with those trends. Firearms were used more frequently and firearm deaths were more prevalent than other modes of killing males (ie, by cutting or piercing weapons), but there was a greater relative increase in homicides using objects other than firearms and knives among white women in cities. Although the homicide rate increased during 1958 to 1974, the proportion of white male felonious homicide victims killed by firearms rather than other weapons was constant at about 76%, but the rate of killings increased by 600%. Overall, the increase in homicide rates was not believed to be due solely to an increase in firearm deaths.

An examination of firearm fatalities in South Carolina from 1970 to 1978 disclosed 5,808 accidental, homicide, suicide, or undetermined deaths, for an average incidence of 645 fatalities per year, or a rate of 23.4 per 100,000 population. In 1975, firearms were the sixth leading specific cause of all deaths- a rate of 2.9%. Significant declines in the fatality rates during the 1970s was allegedly due to decreases in the rates for nonwhites.[11]

<u>Fatalities in Children</u>: One of the more grievous aspects of handgun violence is the fact that children are very often the victims of fatal gunshot wounds, either intentionally or accidentally self-inflicted or as innocent bystanders in scenes of

domestic or street violence. Schetky has stated that gun accidents are the fifth leading cause of death in young children.[12]

Most unintentional firearm deaths among children younger than 15 years were traced to loaded and unlocked weapons used in play. The 88 cases in one study represented 64% of all unintentional firearm deaths and 19% of all firearm deaths in California from 1977 through 1983.[13] The shooter was another family member in 24% of the incidents and a playmate in 35%; 70% were boys aged 10 to 14 years. The authors added that unintentional deaths of friends and family members in the home were up to six times more common than shootings of criminals.

To verify the extent of the firearms hazard in their community, Patterson and Smith surveyed 150 families who attended the pediatric clinic at the University of Texas Medical Branch, Galveston. The authors found that 38% of these families had at least one gun in the home; 55% in this group said that their guns were always loaded and 10% added that their weapons were loaded, unlocked, and within reach of a child.[14]

Of the 210 cases of accidental gunshot deaths (39% were with handguns) in North Carolina from 1976-1980, 94 were self-inflicted and 116 were inflicted by others. Most of the victims were white males, and 31% were under age 15; in 16% of the accidents involving children, the victims were playing with guns, while in 14% the weapons were dropped or mishandled.[15]

The Paulson and Rushforth review of homicides in Cuyahoga County, Ohio, between 1958 and 1982 disclosed that more than 15% of children less than 4 years old, 49% of those 5 to 9 years old, and 63% of those 10 to 14 years old die of firearm injuries, a little more than 55% of which are due to handguns.[16]

Suicides: Depression and chronic alcoholism are reported to be the major reasons Americans consider suicide.[17] As of 1982, over 28,000 Americans per year committed suicide, more than half (59%) were committed with firearms, and a very significant proportion involved youths and the elderly. Almost 50,000 youths between 15 and 24 years old committed suicide in the United States from 1970 to 1980; the number and rate was twice as high for young adults (20 to 24 years) as for teenagers (15 to 19 years), and the greatest proportion of suicides among both males and females was committed with firearms.[18] The firearms suicide rate among people of both sexes aged 15 to 24 years roughly paralleled the corresponding rate by all other means, but it increased by 139% from 1933 to 1982 (for all other means, the rate increased only 32%). Beginning in 1970, however, the firearms suicide rate for those in this age group, especially males, rose dramatically compared to the rise by other means--about three times faster for 15-to 19-year-olds and ten times faster for 20-to 24-year-olds. One plausible explanation for the

rise has been a concomitant increase in the availability of firearms. However, much of the available data are inadequate for anything more than a suggested causal relationship, in part because statistics on suicide are underestimated. Firearms have been the more traditional method of suicide for 10-to 14-year-old males and 10-to 24-year-old females and are even more favored today by females. Overall growth in suicide rates has slowed since 1980, and those related to use of firearms are only slightly higher than those caused by other means.[19]

The same authors also investigated specific suicide methods among adolescents by breaking the data down into five year age groups rather than the usual ten-year grouping.[20] Boyd and Moscicki urge physicians treating depressed or potential suicide patients to inquire about and to prevent access to weapons.

Markush and Bartolucci[21,22] compared the prevalence of firearms with the regional incidence of suicide and determined that a significant demographic relationship between firearms and suicide applied only to white males.

The availability of alcohol and the increasing prevalence of its abuse may also be a significant reason for the rising suicide rate among minors. From 1960 to 1983, firearms victims 10 to 19 years old in Allegheny County, Pennsylvania were about five times more likely to have been drinking beforehand than non-firearm victims.[23]

For anyone intent on suicide, firearms are an assured means of death; about half of the victims choose this method.[7] Had these same persons resorted to less instantly lethal means because fewer or no guns were available, their lives may have been saved. A limited number of those who had received speedy emergency treatment were glad to be alive and may not try again.[24] Hanging, asphyxiation and drowning can be just as irreversible as using a gun if intervention measures are not applied in time, so it does not necessarily follow that the number of suicides would be reduced significantly because of fewer available firearms as long as persons intent on dying can find a lethal means.[7] Availability is probably a big factor in those with a highly impulsive nature--in whom thoughts of suicide occur less than 24 hours before the event.[41]

Injuries

There are virtually no reliable data available on the number of nonfatal firearm injuries because of errors and reporting system incompatibilities; the data that do exist are often misclassified or are incompatible from one system to another.[25] Nonfatal firearm injuries are presumed to greatly outnumber firearm deaths. In a relatively small study, Waller and Whorton,[26] found that 6% of the unintentional gunshot wounds were fatal, and this figure is probably

little different today. In 1968, nonfatal firearm injuries were estimated to be three times more common than firearm deaths; in 1972, the ratio was 5:1.[27] The "best guess" of Wright and Rossi[28] for 1975 was 170,000±75,000 injuries, and 30 times more injuries were inflicted by knives and other penetrating weapons than by guns. In the absence of an adequate database, only the crudest estimates are available on which to formulate legislative policy and to reform society.[27]

Inadequate government funding can be blamed for much of the lack of research and data collection. The disparity in the allocation of federal grant money is stressed in Jagger's comparison of National Institutes of Health research grants for firearm injuries versus five "low-frequency infectious diseases"(LID) (ie, cholera, diphtheria, polio, congenital rubella syndrome, and rabies): there were more than 198,000 firearm injuries compared to 17 cases of LID, yet LIDs received 19 NIH grants while firearm injuries received none.[27]

An early study from California[23] disclosed that only motor vehicle crashes and falls surpassed firearms as a cause of spinal cord injuries. At the Rehabilitation Institute of Chicago, however, admissions for treatment of spinal cord injuries from gunshot wounds (24%) exceeded those due to auto accidents (20%).[22]

RELATIONSHIP BETWEEN FIREARMS AND VIOLENCE

According to Kleck,[30] there is little evidence to show that the possession of a gun will trigger the aggression of its owner. Instead, the gun, especially insofar as robberies are concerned, may inhibit as well as stimulate aggression: He contends, for instance, that robbers with guns are less likely to assault their victims than if armed with other types of weapons. Weak assailants are more apt to use guns when their intended victims are stronger than they are (for instance, women against men, elderly against young). Kleck also believes that it may not be entirely plausible to conclude that guns are really more deadly than, say, knives, because the gun may be used in situations where the intent is to inflict more serious bodily harm. Consider, however, the findings from a study of 1,639 cases of interpersonal violence in Denmark: 60% of the incidents involving firearms were lethal and no more than 7% involving knives were lethal.[31] These figures are supported by Newton and Zimring, who have asserted that guns are five times more likely to result in death than knives.[7]

Residential crimes have been increasing sharply in line with firearms in the home, which may indicate that guns in the hands of home owners does not necessarily deter crime; more likely, the opposite is true.[7] Incidents involving civilians using guns against criminals, though highly publicized by the media, may be based on inadequate data. Unpublished computer counts by the

Federal Bureau of Investigation in 1983 indicate there were 490 justifiable (ie, "excusable") homicides by civilians (422 by firearms) during 1981; there is no way of knowing how many of these were in self-defense because data of this type are not collected either. In Detroit alone, of 297 excusable homicides, 124 were justifiably committed by civilians and only a very small number of these were believed to be accidental.[30]

Accidental deaths (25) from home firearm accidents in Detroit in 1967 exceeded the number of residential robbers and burglars killed in 4 1/2 years (23). One argument states that if homeowners did shoot and kill some burglars and robbers, one could infer that robbers might perceive an armed victim as a threat and avoid him; burglars would not expect to have a confrontation.[7] On the other hand, both burglars and robbers would have all the more reason to carry guns if they expected their victims to be armed.

Business burglaries are more prevalent nationwide than robberies, according to the Small Business Administration; usually the crime takes place when the premises are not occupied by guards or operating personnel, in which case guns would offer no protective value.[7]

EDUCATIONAL PROGRAMS TO REDUCE FIREARM INJURIES AND DEATHS

Numerous organizations have developed, or are in the process of preparing, educational materials and programs on the proper storage and handling of firearms. The largest group, the National Rifle Association (NRA), supports more than 2,000 civilian rifle clubs and trains more than 96,000 teenagers annually.[3] The American Legion is now offering the NRA's basic firearms education courses at its local posts.

The Police Executive Research Forum and the Handgun Information Center (HIC) are nonprofit organizations dedicated to public information and education about handguns and handgun violence. One of the most ambitious recent community education projects was developed jointly by these two organizations. A citywide campaign was conducted in Charlotte, North Carolina during the entire month of April 1985. Program planning and post-critique, including a discussion of difficulties that were encountered, are presented in the "Handgun Safety Campaign: Program Manual."[32] For communities interested in this or similar programs, HIC will provide partial funding to "fill gaps in local campaign resources" and possibly to match local funds. HIC also will provide copies of its brochure and news media materials to law enforcement agencies at nominal cost.

The Foundation for Handgun Education, another nonprofit educational organization dedicated to reducing handgun violence, operates in conjunction with the National Coalition to Ban Handguns. The coalition is composed of 31 national educational,

religious, medical, and professional organizations whose common goal is to prevent needless injuries and loss of life from handgun violence. The foundation also acts as a clearinghouse for firearms litigation information. The foundation has recently begun in Cleveland phase one of a national education campaign to heighten the public's awareness of handgun risks and to "change the attitudes and behaviors of the American people." This city was selected as a marketing research model because as it has a high incidence of handgun-related violence.[33]

Effectiveness: The Charlotte program was evaluated by Vogel and Dean[34] who tested its effectiveness against five hypotheses. This program, of questionable merit because it used nonstandard methods and relied on self-reporting of personal behavior, showed statistical significance in only one of the five hypotheses, ie, those persons exposed to the campaign were more likely to lock up their guns. Most of the controversy raised by the citizens of Charlotte dealt with storing the guns and ammunition in separate locations as a means of optimum safety.

Wintemuth and Teret believe it unlikely that "expanded educational efforts to promote the safe use of firearms will lead to significant future reductions in firearm deaths," because more than 95% of the firearms incidents are intended to do harm.[1]

CRIME DETERRENT LEGISLATION

Legislative Efforts to Control Possession of Handguns

More than 20,000 federal, state, and local gun laws in the United States deal with the sale, distribution, and use of firearms--more than anywhere else in the world. Most states have some form of firearm control; Massachusetts passed the first law in the 1600s, Kentucky in 1813, Indiana in 1819, and Arkansas and Georgia in 1837.[7]

Over the years, a number of polls have shown that the general population is in favor of controls, yet Congress usually has responded only after sensational acts of violence have occurred. Most of the proposed legislation, especially relating to handguns, has encountered stiff opposition and has been either defeated entirely or watered down to the point of ineffectual control. More important, most gun-control legislation has been aimed at the use of guns after they have been placed in circulation, not before their introduction in the market. The National Firearms Act of 1934, for example, was enacted during the reign of the Capone era mobsters to cope with the civilian ownership of "gangster-type" automatic weapons; however, it emerged as a tax measure.[35,7] The Federal Firearms Act of 1938 regulates interstate shipment and receipt of firearms. The Omnibus Crime Control and Safe Streets Act of 1968 and the Gun Control Act of 1968 were prompted by assassinations in the 1960s.[35] (A detailed discussion of the scope and frailties of

legislation and its administration are presented by Newton and Zimring [Federal Firearms Laws, p 97-111]; a similar discussion is presented for foreign firearms laws [Foreign Firearms Laws, p 119-122]).[7]

The nation's first gun-control laws and many of today's municipal laws proscribe the "place and manner" of carrying and using firearms to prevent illegitimate use. "Permissive" laws rely on ownership permits, which are denied to certain relatively small, definable groups who are presumed to be unacceptable risks to society. Unfortunately, purchasers are not required to prove they are not in a high-risk group. Thus, an alternative is a "restrictive" law that does require proof of character and a valid, justifiable reason for ownership. "Registration" complements the licensing process and is one of the cheapest options to administer, but it is not a popular approach and no one can be certain about how effective it will be. It is hoped that registered owners will be responsible about storage and transfer of their weapons in order that they not fall into the wrong hands. The "transfer-notice" in place of registration is meant to report whenever a gun is given, sold, lost, or stolen. It is thought to be simpler and less burdensome to the owners and perhaps records would be cheaper to maintain and thus more feasible than registration.[36] No one can be sure how effective compliance will be with either system.[7] However, all of these controls will probably remain ineffectual as long as interstate traffic in arms sales continues.[36]

Several legislative options have been proposed to correct inadequacies in the current situation, for example: (1) regulate the manufacture and importation of firearms and bar the interstate flow of firearms to "unqualified buyers"; (2) force dealers to verify a buyer's place of residence; (3) increase substantially the cost of a dealer's license fee; (4) require that all private sales be conducted through firearm dealers;[30] and (5) hold firearms manufacturers, distributors and owners strictly liable when their weapons cause wrongful deaths and injuries.[37]

<u>Effectiveness</u>: The Comptroller General's "Report to Congress" in 1978 on the effectiveness and costs of handgun control pointed out that there is "strong and widespread disagreement" about the effectiveness and costs of the various measures for gun control in the United States. The report analyzed the various means of reducing gun-related crime, the extent of which firearms were used in violent crimes, and the relationships between firearm availability, violent crime, and handgun control.[35]

The report found little solid data about the number of firearms and firearm owners in the United States, and only a few good empirical studies on evaluation of gun-control laws. None of the studies showed that there was a decrease in the overall level of violence as attributable to gun control, and it was too soon to

evaluate properly the influence of more severe and mandatory sentencing measures. Gun control did not seem to be the answer to national crime, for the "roots" of crime go deeply into the socioeconomic fabric of contemporary society.[35]

At the time of the report, only 20 states and the District of Columbia attempted to screen for undesirable applicants and even these methods were highly variable. Of the 20, only New York and Massachusetts required the applicant to prove his character and reason for ownership.[7]

Baltimore's "buy-back" program from August to November 1974 (in which owners were given $50 for each weapon turned in and a $150 bounty was paid for information that led to a confiscation) was analyzed after that program ended. Based on very limited data over a 17-month period, statistically there was no significant decrease in overall crime (ie, murders, assaults, robberies, and aggravated assaults) that could be attributed to the program, no lasting decrease in firearm assaults and robberies or aggravated assaults, and no appreciable drop in the rate of murders committed with firearms.[35]

Even the most carefully drafted and enforced gun-control laws have had a questionable impact on crime. Most, while still on the books, are obsolete, unenforced, and unenforceable, undoubtedly because of a lack of uniformity nationwide and the inability of any or all of them to halt the interstate transport of arms.[7] According to the Bureau of Alcohol, Tobacco and Firearms' Project CUE, controls do limit the availability of guns in those states with restrictive laws but the nonuniformity of the laws and the ineffectiveness of bans on out-of-state sales does not entirely prevent the import of weapons. Authors of Project CUE contended that criminals may have been forced to use older weapons, thus suggesting that the project had some effect, but more extensive analysis would be necessary to confirm this contention.[35]

Current state legislation is a "hodge podge," full of loopholes, and lacks effective enforcement.[35] The Gun Control Act of 1968 offers little improvement: It cannot halt interstate movement of arms because it does not require dealers to verify the buyer's place of residence, and it is unable to prevent nondealers from buying arms in one state and transporting and selling in another state. Furthermore, any adult who claims some "address for business" can pay $10 a year and obtain a federal firearm dealer's license. For private sales, no licenses are required.[30]

At least 70% of the U.S. population is ruled by gun purchase or acquisition statutes, and 66% are subject to a police check either before or after the purchase of a handgun. Yet the literature abounds with accounts of ineffectual enforcement. In Illinois, for example, most gun-related arrests from 1972 to 1976 were for "unlawful use of a deadly weapon"; in actuality, the culprits were

apprehended for another infraction, and the offenses were adjudged primarily for carrying a concealed weapon. Only about 12% of the persons convicted from 1968 to 1973 under Chicago's gun registration ordinance (in addition to Illinois' "fairly strict" license law) served time in jail, the mean term being 36 days. About a tenth as many were convicted for unlawful possession and about a fifth for not having a firearms owner's license. Based on an estimated 1.7 million gun owners in Illinois, about 28% do not have gun licenses; therefore, about 500,000 persons could be arrested on that charge alone.[30] The situation in New York City, which- like Chicago- allegedly has an "extremely strict" gun control law, is no better.

The bans enacted in San Francisco in 1982 (later struck down by an appellate court) and Morton Grove, Illinois (in 1981), though not total prohibitions because they covered only handguns, allowed firearms to be kept at home or at work. San Francisco's law, in response to the assassination of a mayor and councilman, would seem to be a flat prohibition on the possession of any handgun and with no restriction on long guns; actually, its many exceptions that are subject to interpretation, such as private citizens of "good moral character," "for good cause," and for "business purposes," provide many loopholes for legitimate ownership. Morton Grove's law was prompted by an application to open a gun shop in the community. This law survived both state and federal courts, but it too has a number of exceptions, the broadest of which pertain to police officers and "special agents."[38]

Overcrowded prisons, overburdened prosecutor case loads, excessive paperwork, and other priorities for limited resources are blamed as the reasons for enforcement laxity. For example, Chicago has a special court for gun cases, but its judges are reluctant to sentence a simple gun violator to prison--especially a "respectable citizen"--when, for lack of space, a murderer or rapist must be released.[30]

Legislation Efforts to Increase Penalties

Inasmuch as handgun bans have turned out to be economically and politically infeasible, some gun control advocates urged- and legislation became focused on--more severe punishment for persons who committed crimes using guns.

The Bartley-Fox Amendment of 1974 to Massachusetts General Law imposed a mandatory one-year sentence- without suspension, probation, parole, or furlough- on anyone convicted of illegally carrying a gun (ie, without a proper identification and authorization to possess and/or carry). Its intent was to require a finding and to prevent plea bargaining and a judge's imposition of a lesser

sentence for that which was mandated. In theory, judges and parole boards were no longer able to decide the length of sentence of the offender; the effect, however, was to shift discretion about guilt or innocence from the courts to the arresting officers and district attorneys, who became more selective of persons to be frisked, reported, arrested, and/or charged in order to avoid incurring the wrath of the "otherwise innocent."[39]

Other states- Connecticut, Hawaii, Maryland, New Hampshire and the Virgin Islands have emulated the Bartley-Fox Amendment. Only Maryland (most like Massachusetts but without a mandatory penalty, in general, on the first offense and an escalating sentence with prior convictions) attempted to eliminate most of the judicial discretion. Hawaii perhaps has the harshest law: a two- to five-year sentence, with no probation and no required finding.[40]

The Michigan Felony Firearm Statute (enacted about 1979) mandatorily added two years to the sentence of a convicted felon who possessed a firearm during the commission of a crime. If strictly enforced, this law should have obviated the shortcomings inherent in the Bartley-Fox Amendment. However, in practice, no differences were observed in the length of sentences imposed between crimes with or without guns; the courts merely adjusted the sentence of the primary felony downward to compensate for the mandatory two-year addition.[39]

California Penal Code 12022, enacted in 1977, is similar to Michigan law: it added a one-year prison sentence to anyone, including accomplices, armed with a firearm while committing or attempting to commit a felony, and two years were added if the weapon was actually used in the crime. However, as in Michigan, for some unclear reason the courts in California have refused to abide by the letter of the law. California's law is not used by the courts except against the most serious of repeat offenders and then probably as a means of "throwing the book" at them. Again, perhaps judges resent this incursion of their turf or they may believe that other weapons, such as knives and clubs, used in crimes of assault (ie, homicides and rapes) are "messier and more heinous" than firearms. In other crimes, it has been reasoned that these types of laws interfere with the plea-bargaining process.[39]

Based on experience in New York, harsh or mandatory prison sentences are not effective deterrents against drug and other felony offenses; neither have they reduced the flow of illegal drugs or the overall level of serious crimes. Consider too, that police are unable to solve the most serious crimes, a large number of which are never reported. Few felons are even arrested, and even fewer are convicted. Then, too, the costs could be staggering: New York City estimated the costs of operating its mandatory prison law in 1974 at close to $20 million for personnel and $30,000 per cell for construction.[40]

Inasmuch as the criminal justice system is already overcrowded, this alternative to gun control may be doomed to failure also.[40] The Justice Department's Bureau of Justice Statistics has recently estimated that the federal prison system operated at 27% to 59% above capacity at the end of 1986. The number of inmates at federal and state prisons reached an all-time high of 546,659, an increase of 217,000 since 1980.[41]

Apart from prison overcrowding, leading national crime commissions oppose mandatory sentences for the following reasons: (1) Judges cannot base sentences on what they perceive as "individual factors" and may, therefore, dismiss or acquit the offender or juries may fail to convict the offender because they feel the mandatory sentence is inappropriate to the individual or crime. (2) Such sentences may seriously interfere with bargaining attempts to obtain a plea of guilty and thereby induce judges and prosecutors to use sub rosa means to avoid mandatory sentences. (3) The courts, as well as the police and prosecuting attorneys, may simply refuse to enforce or may even misconstrue the law. (4) Incarceration is ineffective and may even be counterproductive when it is applied to all crimes and most offenders.[40]

Boston Youth Program

A demonstration project, titled the Boston Youth Program (funded by the Robert Wood Johnson Foundation) experimented with role-playing techniques as a possible means of handling depression and of solving disputes without violence (both depression and violence being potential precursors of firearm injuries, suicides, and homicides). The program was developed for tenth-grade health students in four Boston schools and one community agency. Eighty-seven percent of its participants enjoyed the program, 73% found it helpful in dealing with depression, and 63% found it helpful in handling anger.[42]

OTHER MEANS TO REDUCE HANDGUN VIOLENCE

Improved Weapons Design

Irrespective of the success or failure of all other measures to reduce gun-related deaths and injuries (ie, gun control and crime deterrent laws, public education), it would seem prudent to require improvements or modifications to firearms to make them as safe as humanly possible: improvements should, as a minimum, indicate that the weapon is loaded or ready to fire, prevent accidental discharge, and be less concealable.[25] Redesigning the weapon for safety will be far simpler than attempting to change the behavior of the gun

owner, bearing in mind that children lack an appreciation for and the consequences of the dangers of firearms. If the U.S. government can legislate and enforce child-restraint aspirin bottles, why can it not do the same to child-proof handguns?[43]

Tort Liability

Some persons now advocate recourse to product liability litigation to reduce firearm crime and violence and their associated injuries and deaths.[25] An entire symposium was devoted to the discussion- pro and con- of a manufacturer's liability and victim's recovery via tort law, with due consideration for the immediate victim as well as the bystander.[37] (The case of James Brady vs John Hinkley and R.G. Industries was also discussed in the symposium's proceedings.)[43]

Teret and Wintemute urge that handgun manufacturers be made liable and financially responsible for injuries arising from their products, even apart from the fact that the weapons function as intended and their dangers are not hidden. The authors contend that the manufacturer should know and have foreseen the public health significance of its product from the extensive epidemiologic data and, therefore, should be presumed culpable.[44] Furthermore, the manufacturers should be responsible for acts committed by their products, inasmuch as the utility and social benefits of their products are far outweighed by the potential risks of injury and death.[43]

> "There is no greater perversion of the free enterprise system than that whick seeks to reap profits from human suffering. Who should bear the cost when the products sold by these merchants of destruction accomplish exactly what they are intended to accomplish? It's time to make them pay for the wrongs which a sane society can no longer tolerate. If the notions of morality, conscience and common sense are not enough to constrain these corporations, then just maybe redistributing some of their dollars to the innocent victims of crime will suffice."[43]

Three developments in the strict liability law may have "set the stage" for its application to hangun suppliers: (1) bystander recovery, (2) foreseeable environment of use, and (3) the question of defect. A large body of law relating to motor vehicles (and others) parallels the situation with handguns and may furnish adequate legal precedence.[43]

Turley, et al,[43] contend that strict liability or negligence suits that force handgun manufacturers, distributors, and owners to compensate victim(s) for their wrongful gun-related injuries or

deaths would make it uneconomical to manufacture, sell, or use handguns. Halbrook[43] is of the opposite opinion, in that the principles of strict liability or negligence per se cannot be applied when the defendant has complied with existing statutes. On the other hand, in Kelley, et al vs RG Industries Inc., et al the Maryland Court of Appeals ruled in 1985 that the Saturday Night Special was an "unreasonably dangerous product, and its manufacturers and distributors may be liable for harm that results from its use."[1] RG Industries, one of the primary manufacturers of these weapons, was finally forced out of business.

OTHER EMERGING ISSUES- PLASTIC HANDGUNS

Wintemute, et al,[13] have called attention to the recent introduction of plastic handguns, that if unrestrained, may pose an even greater public health and security risk. Promoted as "dishwasher safe" and "for women to use as a self-defense weapon," these weapons not only may end up being mistakenly used by children as toys, but they also may be used by terrorists to evade airport security measures, inasmuch as they are nonmetallic and transparent to x-ray radiation. Several bills attempting to cope with this issue have been introduced in the 100th Congress, ie, HR 84, HR 155, HR 1005, S 465.[46]

SUMMARY AND RECOMMENDATIONS

The Council on Scientific Affairs recognizes that uncontrolled ownership and use of firearms--especially handguns- is a serious threat to the public's health inasmuch as the weapons are one of the main causes of intentional and unintentional injuries and deaths. The Council, therefore, recommends that the American Medical Association:

(1) Encourage and endorse the development and presentation of safety education programs that will engender more responsible use and storage of firearms;

(2) Urge that government agencies- the Centers for Disease Control in particular--enlarge their efforts in the study of firearm-related injuries and in the development of ways and means of reducing such injuries and deaths;

(3) Urge Congress to enact needed legislation to regulate more effectively the importation and interstate traffic of all handguns;

(4) Urge the Congress to support recent legislative efforts to ban the manufacture and importation of nonmetallic, not readily detectable weapons, which also resemble toy guns;

(5) Encourage the improvement or modification of firearms so as to make them as safe as humanly possible;

(6) Encourage nongovernmental organizations to develop and test new, less hazardous designs for firearms;

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Mr. HUGHES. Dr. DeHart.

Dr. DEHART. Mr. Chairman, members of the subcommittee:

My name is Kenneth DeHart. I am a practicing specialist in emergency medicine from Myrtle Beach, South Carolina.

I would like to tell you about Myrtle Beach. It is a safe, desirable, attractive city, perhaps a city much like your own, and certainly like thousands of others across the United States.

It is one where the citizens have certainly experienced and had to face the tragedy of handgun injuries. I would like to tell you about three patients that I have taken care of in our emergency department over the past 6 days.

Six days ago, we were asked to care for a 14-year-old boy who was accidentally shot—shot in the head—by his brother who was playing with a .32 caliber handgun.

Two days later, we were asked to take care of a 32-year-old male, a father of two, an individual who experienced multiple gunshot injuries from a handgun while involved in a neighborhood argument.

Three days ago, we were asked to care for a 48-year-old woman, a mother of four, who was shot with a handgun by a distressed and estranged husband while singing in the choir at church.

You can imagine these are difficult cases to manage medically. The consoling of the suffering family members and friends, is equally demanding.

Can you imagine the horror in the eyes of the mother when told of the prognosis by an emergency physician of her 14-year-old youngster who had an entry wound in the left temple and an exit wound in the right temple aspect of the skull?

Can you imagine the devastation in the eyes of the family when told by an emergency physician that their 32-year-old productive breadwinner will never walk again?

Can you imagine the anguish in the eyes of the children when told by an emergency physician that their 48-year-old mother, who was safely singing in the choir 1 hour ago, may never speak again?

I know of that anguish because I was that emergency physician. Now granted, the tragedy experienced by the youth could perhaps have only been prevented by more aggressive parental supervision and perhaps more adequate gun education on behalf of the parents.

But it is my opinion that the 32-year-old father and the 48-year-old mother could have benefited by the legislation you are considering here today.

In reviewing the medical records and the police reports, it would appear that the individuals that propagated the trauma I have discussed could not have legally owned handguns had this legislation been in effect 6 days ago.

I am one of 11,000 emergency physicians in the United States today, and I am saddened to tell you that most of my colleagues could share with you similar tragedies.

What has happened in my hometown this past week may and will happen in other hometowns next week. As one who must care for the traumatized and console the suffering, I am most concerned about handgun injuries. I would ask that you share my experience.

Thank you.

Mr. HUGHES. Thank you very much, Dr. DeHart.

Thank you to all the panelists for excellent statements. Without objection, they will all be received for the record in full. But I read the statements last night and they were excellent, comprehensive statements, and they will be of immense help to this subcommittee.

It is the Chair's intent to break at noontime for lunch for 1 hour, to return here at 1 o'clock. This subcommittee has some housekeeping to do. We need to report a number of subpoenas in Executive Session so we are going to have to clear the room in just a few minutes to report out those subpoenas in connection with an investigation that is under way by this subcommittee.

Any members have any questions of this panel?

Mr. GEKAS. Just one.

Mr. HUGHES. The gentleman from Pennsylvania.

Mr. GEKAS. Thank you, Mr. Chairman.

Real quickly, with respect to the AFL-CIO statement that was made here, there seemed to be a great deal of reliance on, and properly so, the expert opinion of the police chiefs and the law enforcement agencies, et cetera.

I have been wondering as I have been sitting here whether you as an organization have looked into their positions—these same experts—on the death penalty, which 95 percent of them, I believe, would like to see promulgated on a Federal basis, and on reform of the exclusionary rule which causes so many horror stories of guilty people leaving the courtroom free.

I am wondering if the AFL-CIO—the same organization or same committee which devolved into the position for this hearing, would care to check with these same police chiefs and law enforcement agencies on these other things, and venture an opinion on those two aspects, really in courting many of us in our efforts to try to take a big bite out of crime.

Mr. BILIK. If we were to actively involve ourselves in consideration of the issues you have raised—I am not a lawyer for one thing so the exclusionary thing is one I wouldn't dare to get near. But if we were to do so, no question about it, our tendency is to call on professional experts from various categories and to at least consider their views.

We have not, at this point, gone beyond the issue that has been raised here today. This seems to be one that's imminent and demanding; and there's a great need for something to be done in terms of the waiting period—it's simple, precise and understandable to us, and so we present our position on it.

Mr. GEKAS. I may be writing a letter to ask you to do that.

Mr. LAMAR SMITH. Mr. Chairman.

Mr. GEKAS. I yield back.

Mr. HUGHES. The gentleman from Texas.

Mr. LAMAR SMITH. Dr. DeHart, a quick question for you.

Certainly the three examples you gave are tragic and no one would quibble with that.

My point to you is I heard absolutely no evidence that if there had been a 6-day waiting period that would have prevented any of the three accidents that you mentioned from occurring.

You mentioned the boy that had been shot accidentally by playing with weapons and so on, but I didn't hear anything about the gun had just been purchased the day before.

Dr. DeHart. It is our understanding in talking with local authorities, that two of the three individuals—the three cases that I mentioned to you—were purchased by felons. That presumably had this legislation been in effect, that presumably could have been discovered and those weapons could not have legally been possessed.

Mr. Lamar Smith. That's a long gap to leap. In point of fact, you know, they might have obtained weapons in other ways; they might have had other weapons, and so on. And just because they were felons—we were talking about the 6-day waiting period—at least you mentioned that in reference too, and I was trying to draw a connection between the two.

Dr. DeHart. By virtue of the fact, Congressman, that these are recent incidences, not all the facts are in.

I mention them for two reasons. One, to increase our awareness of the tragedy that is transpiring in our emergency departments all across the country, with just handgun injuries in general.

Now, in particular with the examples that we have mentioned, it would seem that at least the third case was one that the gun was obtained on very short notice—the individual was shot in church.

We can always speculate at this time that the authorities are still investigating the cases, but quite possibly this legislation would have impacted that case.

Mr. Lamar Smith. So possibly one of the three might have been impacted by the legislation we are considering today is my point.

The second point I want to make, though, in addition to that, is that you mentioned and alluded to during your testimony that maybe stronger measures would be considered—to my knowledge, the only thing that would have prevented all three of those accidents from occurring would have been complete confiscation of all firearms.

Dr. DeHart. I, as a physician, am not an expert in legal affairs and in weapons. But I am concerned about what transpires in our emergency departments.

Mr. Lamar Smith. We are all concerned.

Dr. DeHart. My sense is that if we can save one in three, to me that would be worthwhile.

I think, secondly, by virtue of two of the three being felons, we could perhaps speculate that they——

Mr. Lamar Smith. We are all concerned. But your speculating—and maybe one of the three, we don't know because they haven't completed their investigation and so forth.

My point to the subcommittee is that while the three examples you gave are tragic, they do not directly relate necessarily to the legislation being considered today.

Mr. Hughes. I wonder if we could do this—rather than speculate, why don't we see if we can't get some facts in this case. It shouldn't be too difficult even though it is an ongoing criminal investigation—and we will do that. That should satisfy that question.

Thank you very much.

Mr. Smith.

Mr. Lawrence Smith. Mr. Chairman, I would like to just say that I want to commend the gentlemen at the table for their statements.

I want to say also that I think it is very indicative of a common thread that is probably beginning to run more and more, thank goodness. Our populations are represented by those sitting at the table; the gentleman that represents the American Medical Association and literally thousands and thousands of doctors, emergency room physicians—of which there are 11,000—the Bar Association, which represents hundreds of thousands of lawyers; the Public Employee section of AFL–CIO, which is probably certainly more than a million, closer to four million public employees.

I will tell you, Mr. Chairman, I hope people are beginning to realize that the broad range of all Americans favor this kind of legislation. And all of the rhetoric that you hear about all these Americans who don't, is not true. These people at this table represent a broad cross-section of blue and white and professional America, and they really care about passing this bill.

Doctor, I want to commend you. If you could save one in three, more power to you.

All I want to ask you is one question. Would you do almost anything in your power to save a life?

Dr. DeHart. Always.

Mr. Lawrence Smith. Especially if it didn't hurt you or anyone else?

Dr. DeHart. Certainly.

Mr. Lawrence Smith. You consider this legislation to be that kind of lifesaver?

Dr. DeHart. I do.

Mr. Lawrence Smith. Thank you very much.

Mr. Hughes. I thank the gentleman.

Mr. Mazzoli. Just a couple of things.

Mr. Hughes. The gentleman from Kentucky.

Mr. Mazzoli. I want to thank everyone for their testimony—the two doctors and the representative from the American Bar, and Mr. Bilik.

I think to echo what my friend from Florida here said, I really do believe there's something happening. I know that just going back home—which I do just about weekly, to conduct forums and meetings, which have included Ed Martin and some of my friends from the organization at home—these questions come up spontaneously. You don't have to lay it down as, you know, what is your view on this kind of activity, a 7-day waiting period or plastic guns. It is spontaneous from within the crowd.

So I think that something is happening. I think there is some concern being raised around America. Whether or not we have the answer is hard to say. I think that we want to be sure that while we like to be able to have a fail-safe document, an absolutely perfect way, we will never have that. So we may have to take a first step of just one other element that might lead to a safer community.

But I do suggest that there does seem to be something developing around the country, and I would thank you for your help today and look forward to working with you.

Mr. Hughes. I thank the gentleman.

Thank you very much.

I just have one request, as a matter of fact, of Mr. Vaira.

Mr. VAIRA. Yes, sir.

Mr. HUGHES. You have had a very distinguished career over the years; a very well respected lawyer; in your own right a constitutional expert, and I would invite you to address the question of whether or not any effort to provide a waiting period comports with the constitutional protectors afforded individuals?

Can you do that for the record for us?

Mr. VAIRA. I can do that. Do you want that in the written submission, sir?

Mr. HUGHES. If you would do that for us.

Mr. VAIRA. I would do that. The written submission on whether or not a 7-day or any waiting period—reasonable waiting period—impacts upon the right to bear arms.

Mr. HUGHES. Yes, because we are going to meet that argument and it would be very important, I would think, for somebody from the American Bar Association to submit——

Mr. VAIRA. Sir, the right to bear arms, as I understand it, deals with long rifles and being able to have a militia, I don't think has anything to do with firearms.

Mr. HUGHES. We understand that but I think it would be very helpful if we could have that from the American Bar Association.

[The information was not submitted:]

Mr. HUGHES. Let me associate myself with the comments of my two colleagues—I, too, find that something is happening and people do want rational protections. It is my hope that with your assistance we can develop something that makes sense and will be effective.

Thank you very much.

At this time the subcommittee is going to recess until 1 o'clock. Now, I realize that some panelists have flights and we just hope that you can make other arrangements. We will try to accommodate you early in the afternoon session if in fact you have early flights.

We are going to ask if you would clear the room at this point so we can go into Executive Session.

The subcommittee stands recessed until 1 o'clock.

[Whereupon, at 12:09 p.m., the subcommittee proceeded in Executive Session.]

Mr. HUGHES. The Subcommittee on Crime will come to order. Our third panel this morning consists of, first, Dewey Stokes, the National President of the Grand Lodge of the Fraternal Order of Police; also the President of the Columbus, Ohio, Lodge Number 9 of the FOP. Second is Jerald R. Vaughn, Executive Director, International Association of Chiefs of Police. Mr. Vaughn has over 20 years of experience in law enforcement and served as Chief of Police in cites in Colorado. He was also decorated by the Governor of Colorado and serves on numerous boards in the law enforcement community.

Third, testifying for the National Organization of Black Law Enforcement Executives is Marty M. Tapscott, Past President. Chief Tapscott is the former Chief of Police in Flint, Michigan where he served for some 27 years. He served in the Metropolitan Police Department in Washington DC, where he was promoted through the

ranks, retiring in 1986 as Assistant Chief of Police. He has a Bachelor of Science Degree in the Administration of Justice.

Fourth, on behalf of the Police Management Association, we have Edward J. Spurlock, the Association's President. Mr. Spurlock is inspector with the Metropolitan Police Department here in Washington, DC, and Commander of the Repeat Offender Project, Special Operations Division, developed in 1982.

He has lectured to law enforcement groups throughout the world and serves as a consultant to several national and Federal law enforcement organizations. He is a graduate of American University with a Bachelor of Science Degree in the Administration of Justice.

Fifth, Ronald De Angelo, the Legislative Chairman of the Police Association of the District of Columbia is testifying on behalf of the National Association of Police Organizations. He is an Officer of the Metropolitan Police Department, Washington DC.

Sixth is James P. Weber, Assistant Legislative Council to the International Brotherhood of Police Officers on behalf of the Brotherhood. Mr. Weber formerly served in the Felony Trial Division of the U.S. Attorney's Office for the District of Columbia. He is a graduate of Catholic University and Columbus School of Law.

Our seventh and final witness on this panel is Special Agent Sterling Epps, who I understand, unfortunately, is ill. I don't know whether anybody has been substituted in his place or not. His statement and the other statements of the panelists, without objection, will be made a part of the record.

Gentlemen, we have your statements, and they are excellent statements, very comprehensive and we appreciate it and we hope that you can summarize for us today so we can move through a number of other panelists. Besides, I know some of you have flights very shortly, and we are going to see if we can accommodate you.

Mr. Stokes, we will begin with you. Welcome.

TESTIMONY OF DEWEY STOKES, NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE, COLUMBUS, OH; JERALD VAUGHN, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, GAITHERSBURG, MD; EDWARD SPURLOCK, INSPECTOR, METROPOLITAN POLICE DEPARTMENT, WASHINGTON, DC, PRESIDENT, POLICE MANAGEMENT ASSOCIATION; MARTY M. TAPSCOTT, FORMER CHIEF OF POLICE, FLINT, MI, PAST PRESIDENT, NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES; AND JAMES WEBER, COUNSEL, INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

Mr. STOKES. Mr. Chairman, members of the subcommittee, the members of the Fraternal Order of Police believe and have resolved that I express our strong support for this legislation requiring a 7-day waiting period for the purchase of handguns. It is our firm view that H.R. 975 does not infringe upon that very important right, the right to keep and bear firearms.

This legislation has absolutely no effect whatsoever on who may or may not purchase a handgun. It merely elongates a process.

This legislation has no meaningful effect upon the hunters or on the interested legitimate gun collectors whose purpose is acquiring those guns for legitimate purposes. Our newspapers are replete

with instances of convicted felons purchasing or attempting to purchase handguns and committing offenses prior to the paperwork catching up. We believe this legislation could enhance that opportunity to circumvent those felons from the purchase of firearms.

We are aware that many groups have effectively lobbied against gun control. This legislation does not constitute gun control. It merely provides an opportunity to avoid a tragedy before the handgun leaves the gun store. It is, as we have said before, a cooling-off period. We already have incidents involving individuals who are distraught or disturbed, who rush out to the nearest gun store, purchase a handgun and injure or kill themselves or others.

A handgun is simply not an item to be an impulsive purchase. Allowing a person to purchase a handgun on the spur of the moment simply enhances the likelihood that a person who, after a short period of reflection, would decide to do otherwise or take some other course of action in today's society.

The cases of despondent individuals who are in deep despondency and purchase a handgun, and in an isolated tragedy take their own lives are numerous in this country. We must move to do something about it.

In summary, we noted and we believe that the benefits are substantial in support of H.R. 975. It is a rational response to an extremely troublesome problem for all of our citizens and especially for us in law enforcement and the officers charged with responsibility for protecting your constituents.

You have an opportunity to bring some sanity to the gun question, and it appears to me that with the continued increases you have heard this morning of the gun-toting crimes, we, the Congress of the United States and the police officers of this country see a need for this legislation and should prevail in the passage of H.R. 975, and we urge your subcommittee's support for 975.

Mr. HUGHES. Thank you very much, Mr. Stokes.

[The statement of Mr. Stokes follows:]

STATEMENT OF THE

FRATERNAL ORDER OF POLICE

BEFORE THE

HOUSE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON CRIME

ON H.R. 975, SEVEN-DAY WAITING

PERIOD FOR HANDGUN PURCHASES

FEBRUARY 24, 1988

Good morning. Mr. Chairman, Members of the Subcommittee, I am Dewey Stokes, National President of the Fraternal Order of Police. The Fraternal Order of Police is the largest member organization of professional law enforcement personnel in the United States. Our organization is comprised of local lodges belonging to state lodges which, in turn, belong to the Grand Lodge, of which I am National President. I am also President of my local lodge (No. 9), Columbus, Ohio.

The Fraternal Order of Police consists of almost 200,000 members, including municipal police officers, state troopers, sheriff's deputies, federal law enforcement officers and virtually every other form of law enforcement officer in the United States.

Our organization's purpose, as stated in the Preamble to our Constitution, states, inter alia:

> "To support and defend the Constitution of the United States . . . to promote and foster the enforcement of law and order . . . and thus more firmly to establish the confidence of the public in the service dedicated to the protection of life and property."

Our membership consists of devoted men and women of all races, colors, and national origins who share these common goals, and we are very grateful to be afforded this opportunity to appear before your distinguished Subcommittee to participate in these hearings.

Mr. Chairman, the members of the Fraternal Order of Police believe and have resolved that I express to you our strong support for legislation requiring a waiting period on handgun purchases. I have submitted for inclusion in the Record a copy of the resolution passed in August, 1987, at our Biennial Conference, which sets forth our statement of support for a waiting period for handgun purchases. I call to your attention that this resolution was adopted at a conference of over 2,100 of our members, representing, as delegates, one vote for every fifty FOP members.

Let me first state for the Record that the Fraternal Order of Police is firmly committed to the "right of the people to keep and bear Arms." It is our firm view that H.R. 975 does <u>not</u> infringe upon that very important right. Instead, H.R. 975 is a limited and carefully designed piece of legislation directed at a specific problem. It does not prohibit persons from purchasing handguns -- it merely provides a momentary pause during which the mechanisms of government may determine whether the person proposing to purchase a handgun is legally entitled to do so. This legislation has absolutely no affect whatsoever on who may or may not purchase a handgun -- it merely élongates the process. Further, this legislation deals only with handguns -- the principal firearm used by persons involved in crime and one of the primary instrumentalities of persons involved in crimes or

acts of passion. This legislation has no meaningful effect upon hunters or other interested gun collectors whose purpose in acquiring a handgun is legitimate. The legislation merely allows time to determine whether the person proposing to purchase the handgun is permitted by law to do so or, equally as important, to allow the person proposing to purchase the handgun some time to reflect upon the purchase, if necessary.

First, I would like to speak to the issue of allowing time to determine whether the person proposing to purchase the handgun is permitted by law to do so. This Committee is well aware of the many instances in which persons prohibited by law have been able to purchase "Saturday night specials" over the counter by reason of the absence of any meaningful governmental involvement. This legislation <u>in no way</u> restricts the purchase of handguns to anyone. The legislation merely allows sufficient time to determine whether the person proposing to purchase a handgun is already otherwise prohibited from doing so. Our newspapers are replete with instances of convicted felons purchasing handguns and committing offenses prior to the paperwork catching up with the purchase. We all read with horror about the individual who entered a brokerage house in Florida recently, killed a broker and, it turns out, is a convicted felon with the witness protection program. The passage of this legislation will not eliminate the purchase of handguns by all convicted felons or

persons otherwise under legal disability. However, the seven-day waiting period does provide an opportunity to prevent some of such individuals and, thereby, prevent some of the tragic consequences of these purchases.

We also read all too frequently of the "cottage" gun trade industry which fosters the trading of handguns from states with weak gun control laws to states with more rigorous laws in exchange for drugs and other illicit materials. I submit herein for the Record a copy of the article entitled "Virginia Guns Reported Traded for New York Drugs."

We are all aware of the many groups that have effectively lobbied against "gun control." This legislation does not constitute gun control and merely provides an opportunity to avoid tragedy <u>before</u> the handgun leaves the gun store.

A second and significant benefit of H.R. 975 and the waiting period contained therein is the "cooling off period." We have all read about incidents involving individuals who, distraught or disturbed (but not otherwise under legal disability,) have rushed to the nearest gun store, purchased a handgun and injured or themselves or others. This legislation does not prohibit the purchase of handguns by disturbed persons; however, it does prevent spontaneous purchases of handguns. A handgun is simply not an impulse (and note that they are often displayed at cash

registers of our local groceries.) These items, and many others, are frequently purchased by the consuming public on an impulse basis -- "That's a good idea -- I think I'll buy one." However we may feel about the purchase of handguns (and we acknowledge substantial differences of opinion in this regard,) it cannot be argued that the purchase of a handgun is not significant and serious event. Allowing persons to purchase handguns on the spur of the moment simply enhances the likelihood that persons who, after a short period of reflection would decide otherwise, will purchase a handgun and do something that they or others will later regret. Would the individual in Florida have committed the murder had he been forced to wait seven days? Would President Reagan and Jim Brady have been shot had Hinckley been forced to wait seven days? Such questions are endless. The cases of despondent individuals who, in the depths of despondency, purchase a handgun and in isolation and tragedy take their own lives are numerous. Were those individuals required to wait seven days, some hope remains that their ultimate decision might be different. To the extent that H.R. 975 might save one life, might prevent one suicide, might eliminate one injury, H.R. 975 is justified.

As noted, we believe the benefit is substantially greater. We urge your support of H.R. 975 -- it is a reasonable and rational response to an extremely troubling problem for all of our citizens and, most especially, for your law enforcement officers charged with the responsibility for protecting your constituents.

Thank you.

Virginia guns reported traded for New York drugs

By Jim Mason
News Leader staff writer

Virginia's lax gun-control laws contribute to a crime-related trade of guns bought in such cities as Richmond to be exchanged for drugs in New York City, a federal law official here says.

"From the intelligence that we have gathered, people will buy guns in Virginia and take them back to New York and trade them for drugs. They will at least double or triple their money in narcotics," said Lacy O. Campbell, agent in charge of the Richmond office of the Bureau of Alcohol, Tobacco and Firearms.

"It's a serious problem for us," he added.

The state of New York has a law that prohibits sale of handguns, and such other northeastern states as New Jersey, Pennsylvania and Maryland have handgun sale restrictions, including waiting periods for a purchase, while Virginia does not, Campbell said today.

"Virginia is the closest state to New York where you can easily buy a gun," Campbell told a Virginia State Crime Commission gun-control study panel meeting here yesterday.

Although federal law requires a gun purchaser to show identification, such a restriction poses no problem for gun buyers, he said. A New Yorker, for example, can obtain a Virginia driver's license to show in buying guns or he can get a friend in the state to buy the gun, Campbell explained.

However, a driver's license is not the only form of identification that a buyer can show, he added. "You can show such other forms of identification as a telephone bill or a light bill."

Campbell's comments on the ease of gun purchases in Virginia appeared to support an appeal to the study group urging tougher gun control laws for the state.

Robert Walker, a veteran Richmond police sergeant and executive director of the Virginia Fraternal Order of Police, asked the study panel to recommend that the General Assembly require at least a seven-day waiting period for sale of a handgun.

As an argument for such a gun-control measure, Walker cited the recent killings of a Henrico County motel clerk and a businessman checking into the motel during a robbery. One of the suspects in the murders had been arrested half a dozen times for carrying a concealed weapon and had an Uzi semiautomatic pistol, the sergeant said.

"Nobody hunts deer with an Uzi submachine gun," Walker said. "Police have no control over such offensive weapons. We must send out a message to persons with illegal criminal intent who carry guns that this will not be tolerated in the commonwealth.

"We're asking that local authorities be empowered to control sales of such weapons," he told the panel. "Police have a responsibility to the community to find out who purchases such weapons and for what purpose."

A minimum seven-day waiting period before a gun may be bought would allow police to check into a prospective buyer's background to see if he has a criminal record, Walker said.

A spokesman for firearms enthusiasts and collectors, however, told the crime commission study group that tougher gun-control laws will not keep guns out of the hands of criminals.

"A criminal's not going to obey any law," said Raymond W. Cahen of Richmond, who represents the Virginia State Rifle and Revolver Association.

The commission study group, headed by Del. Clifton A. Woodrum, D-Roanoke, concluded yesterday's two-hour meeting by deciding to consider whether legislation is needed to ban or restrict sales of plastic firearms, that cannot be detected at airports, and armor-piercing ammunition.

Study panel members also agreed to look into Walker's requests that it recommend waiting periods for purchase of handguns and that the crime commission call for stiffer penalties for carrying concealed weapons and using handguns in crimes.

The panel also agreed to hold a public hearing on the firearms issues, probably in late August.

Mr. HUGHES. Mr. Vaughn, welcome again.

Mr. VAUGHN. Thank you very much. I appreciate the opportunity to be here with you again today and to convey to you the feelings of the members of the International Association of Chiefs of Police. Now, as you indicated earlier, you have our written statement and the executive summary, and, frankly, I am going to deviate from even giving you an executive summary because I think something has occurred in this hearing that demands immediate attention.

I believe this subcommittee has been seriously misled about the position of police executives with respect to this bill and other bills related to gun issues. Now, Representative Smith from Texas earlier read excerpts of a letter from the National Association of Chiefs of Police signed by one Robert Furgeson. That troubles me a great deal, and I think I would like to share with this subcommittee some things that you absolutely need to know when weighing how police executives feel about these issues that are before this subcommittee.

The National Association of Chiefs of Police is one of 30, actually over 30 organizations created and directed by one Gerald Arenberg of North Miami, FL. I would submit for the record a copy of an article that was recently done where the information was derived from public records that outline over 30 organizations, which in fact include such things as the American Federation of Police, American Fraternal Programmers, American Law Enforcement Officers Association, Inc.; American Park Rangers Association, Florida Crime Prevention Bureau, Executive Protection Services, Florida Crime Prevention Commission, Greater Miami Crime Investigation Commission, International Federation of Police, Millionaires' Club International, National Association of Chiefs of Police, Venerable Order of the Knights of the Archangel.

In addition, he has organizations including the American Police and Fire Chiefs Yearbook, American Police and Fire Chiefs Foundation, Hall of Fame Museum, Crime Prevention, Florida Yacht and Boat Association, International Order of the Good Shepherd, Public Safety Products, Mercenary Magazine, Millionaires' Club of Miami, National Law Enforcement Academy, United States Federation, Confederate States, Navy Incorporated, Army Navy Club of Miami, International Association of Criminologists, National Association of Chiefs of Police, Inc.

The long and short of it——

Mr. HUGHES. Without objection, that will be received in the record.

[The information follows:]

An Issue of Importance to Police Executives:

What You Should Know About Gerald Arenberg's 30 Organizations

Over the past several months, IACP has received numerous inquiries regarding the programs and activities of Mr. Gerald S. Arenberg of North Miami, Florida, and his various organizations, principally the National Association of Chiefs of Police (NACOP), the American Federation of Police (AFP) and the American Police Hall of Fame. It has become apparent that Mr. Arenberg is aggressively marketing membership in organizations that he is associated with through direct mail campaigns as well as his publications *Police Times* and his newest, *Chief of Police*, which is similar in design and appearance to IACP's *Police Chief*. Further, Mr. Arenberg has contacted several members of the IACP requesting information on IACP programs, projects and services.

It is the position of the IACP that substantive differences in both composition and content exist between the IACP and the thirty organizations created and directed by Mr. Arenberg. We believe that each police executive should be free to affiliate with the organization that is most consistent with his professional philosophy, values and objectives.

In order to make that decision, however, the police executive needs to weigh the facts carefully. A full description of IACP, its history, makeup and activities was carried in a special section of the July issue of the *Police Chief* called "The IACP Today." We would welcome verification of the involvement and professional credentials of the IACP governing body and staff, this association's activities and its membership list by any independent body with a legitimate interest. In making a decision to support or affiliate with a professional association, we believe you should know some relevant facts about Mr. Arenberg's thirty organizations and how they differ from IACP.

Under the Freedom of Information Act, IACP has obtained copies of Internal Revenue Service Forms 990, "Return of Organization Exempt from Income Tax," submitted to the IRS over the past few years by several organizations directed by Gerald S. Arenberg. IACP has also obtained a variety of corporate records from the state of Florida, including a computer-generated list of all entities incorporated or registered by Arenberg in Florida, along with various articles of incorporation and annual reports of these corporations.

All of the information presented in this article was obtained from public records, and can be verified through the offices of the Florida Department of State, Division of Corporations, Tallahassee, Florida, and the Internal Revenue Service, Atlanta District Office. Both the state corporate records and IRS records consist of documents submitted by Arenberg and/or corporations of which he was or is president or director.

Corporations Affiliated with Mr. Arenberg

Records obtained from the Florida Department of State show that either Mr. Arenberg or someone on his behalf has, at one time or another, registered thirty different corporations in the state of Florida.[1] Eleven of these corporations were in existence as of July 1986.[2] These eleven were:

- American Federation of Police, Inc.
- American Fraternal Programmers, Inc.
- American Law Enforcement Officers Association, Inc.
- American Park Rangers Association, Inc.
- Florida Crime Prevention Bureau Executive Protection Services, Inc.
- Florida Crime Prevention Commission, Inc.
- Greater Miami Crime Investigating Commission, Inc.
- International Federation of Police, Inc.
- Millionaires Club International, Inc.
- National Association of Chiefs of Police, Inc.
- The Venerable Order of the Knights of Michael the Archangel, Inc.

Two of these eleven corporations—American Fraternal Programmers and the Florida Crime Prevention Bureau Executive Protection Services—are registered with the state as for-profit corporations.[3] The other nine corporations are registered as nonprofit corporations.[4]

Of the nineteen other corporations Arenberg or someone on his behalf has registered with the state of Florida over the past 26 years, eleven were for-profit corporations.[5] These eleven were:

- American Police and Fire Chiefs Yearbook, Inc. (last year of corporate existence: 1980)
- American Police and Fire Foundation, Inc. (1977)
- American Police Hall of Fame and Museum Corporation (1980)
- Crime Prevention Bureau of Florida, Inc. (1983)
- Florida Yacht and Boat Association, Inc. (1978)
- International Order of the Good Shepherd, Inc. (1984)
- International Public Safety Products, Inc. (1984)
- Mercenary Magazine, Inc. (1982)
- Millionaires Club of Miami, Inc. (1978)
- National Law Enforcement Academy, Inc. (1978)
- United States Federation of Police (1978)

The eight not-for-profit corporations registered in Florida either by Arenberg or on his behalf but no longer in existence[6] are:

- American Federation of Police, Inc. (last year of corporate existence: 1981)
- American Law Enforcement Officers Association Citizens Band Radio Patrol, Inc. (1984)
- The Army-Navy Club of Miami, Inc. (1978)
- Confederate States Navy, Inc. (1980)
- International Association of Criminologists, Inc. (1981)
- National Association of Police Chiefs, Inc. (1984)
- National Police and Fire Fighters Association, Inc. (1981)
- The Order of Michael the Archangel, Inc. (1981)

Note that the American Federation of Police appears both on the list for corporations currently in existence and on the list of

corporations no longer in existence. The American Federation of Police was incorporated in 1966 and dissolved on or about March 18, 1981[7]; a separate entity known as the American Police Reserves was renamed the American Federation of Police on July 14, 1981, and is still active.[8] Other organizations reincorporated under the same or similar names include the Venerable Order of the Knights of Michael the Archangel (current) and the Order of Michael the Archangel (dissolved in 1981),[9] and the Millionaires Club International (current) and the Millionaires Club of Miami (dissolved in 1978).[10]

The records released by the Florida Department of State also document the history of the corporate entity known as the National Association of Chiefs of Police. From May 23, 1967, to February 14, 1980, this corporation was named the National Police Museum, Inc. From February 14, 1980, to September 23, 1982, it was known as the International Academy of Criminology, Inc.; on September 23, 1982, it became the National Association of Chiefs of Police.[11] Name changes such as these are not uncommon for corporations organized and directed by Arenberg; for example, the Millionaires Club International, Inc., was known until March 17, 1983, as the Florida Yacht Association, Inc.[12] The American Law Enforcement Officers Association, Inc., was known until July 11, 1985, as the Florida Union of Security Employees, Inc.[13] The Florida Crime Prevention Bureau Executive Protection Services, Inc., was known until January 11, 1979, as Sight and Sound International, Inc.[14]

What makes the National Police Museum-International Academy of Criminology-NACOP sequence of name changes curious is the comparison with the name changes of another Arenberg organization, the International Association of Criminologists, Inc. This was a not-for-profit corporation involuntarily dissolved by the state of Florida on December 16, 1981.[15] It was incorporated on December 22, 1970, under the name International Academy of Criminology, Inc. The corporation's name was changed on February 14, 1980, *from* the International Academy of Criminology *to* the International Association of Criminologists—the same day that the name of the corporation known as the National Police Museum was changed *to* the International Academy of Criminology.[16]

Records obtained from the state of Florida show that Arenberg was or is the president or a director of every one of the thirty organizations registered with the state; he is listed as a director of all thirty and as president of 21 of them.[17] A Derrick B. Van Brode IV is listed as a director of 29 of the 30 corporations.[18] (The exception is Mercenary Magazine, Inc.; Arenberg is the only director or corporate officer listed by the state.)[19] Another person, Donna Shepherd, is shown to be or to have been an officer or director of 12 of these organizations.[20]

Articles of incorporation for The Venerable Order of Knights of Michael the Archangel, Inc., currently registered in Florida as "active, non-profit,"[21] show that the corporation is incorporated in California under that state's Nonprofit Religious Corporation Law "primarily for religious purposes."[22] The articles of incorporation state that the Order's purpose is "(t)o do all and everything necessary to promote the teaching and evangelization of the gospel through acts of charity, goodwill, and other such acts performed by individuals referred to as 'Knights.' Said Knights shall act as ministers of the Bible, thus being representative of Michael the Archangel."[23]

Table 1

Payments For Management Fees to American Fraternal Programmers

Tax Year Ending	APF	NACOP	FL CPC	TOTAL
1981	$ 20,526	$ N/A	$ N/A	$ 20,526
1982	135,907	2,640	43,964	182,511
1983	N/A	N/A	43,573	43,573
1984	135,288	35,624	33,541	204,453
1985	136,645	85,405	—	222,050
	$428,366	$123,669	$121,078	$673,113

N/A—Form 990 not available for that year
A straight line (—) indicates that no payment was made to American Fraternal Programmers for that tax year. Payments under $30,000 need not be reported on Form 990
APF—American Federation of Police
NACOP—National Association of Chiefs of Police
FL CPC—Florida Crime Prevention Commission

Payments for "Management Fees"

Arenberg has often claimed that he receives only minimal compensation as chief executive of AFP, NACOP and his other nonprofit organizations. A November 1980 article published in *Police Magazine* states, "He (Arenberg) says he earns $20,000 a year, about what the cop on the beat makes. . . ."[24] In a November 1985 interview in *Law Enforcement News*, Arenberg was quoted as saying that AFP and NACOP "have a very small staff and, unfortunately, very small salaries, and we're able to keep our administrative costs such as rent, telephone, operations, etc., to 20 to 25 percent."[25]

The Forms 990 filed by NACOP, AFP and other organizations directed by Arenberg and obtained by IACP show that Arenberg does not receive a salary as such. On each Form 990 made available by the IRS, the amount of "0" is listed next to Arenberg's name under the entry for officers', directors' and trustees' compensation.[26] However, under the entry for "Compensation of Five Highest Paid Persons for Professional Services," many of the Forms 990 obtained by IACP show payments in large amounts for "management fees" to a company named American Fraternal Programmers, Inc.[27]

American Fraternal Programmers, Inc., is a for-profit business incorporated in Florida on March 24, 1976, by Arenberg, Van Brode and L.P. Ellis. Van Brode was listed as president, Ellis as vice president and Arenberg as secretary-treasurer. Van Brode and Arenberg were listed as directors.[28] In the annual report for 1978 filed with the Florida Department of State, Division of Corporations, Ellis's name has been crossed out; Arenberg is listed as president and Van Brode as secretary.[29] On the most recent annual report, dated April 27, 1987, Arenberg is still identified as president and Van Brode as secretary. Donna Shepherd is also listed as a corporate officer. Arenberg and Van Brode are the directors.[30] The corporate business address on all documents submitted by American Fraternal Programmers from incorporation in 1976 to the most recent annual report is "1100 N.E. 125th Street, North Miami, FL 33161"[31]—the same address used by AFP, NACOP, the Florida Crime Prevention Commission and almost all of the other organizations for which Arenberg and Van Brode are directors or officers.[32]

As a for-profit corporation, American Fraternal Programmers can issue stock. Article Three of American Fraternal Programmers' Articles of Incorporation states, "The maximum number of shares that this corporation is authorized to have outstanding

Table 2

NACOP—Revenue and Expenditures for Tax Years 1984 and 1985

	Revenue		Expenses		
Tax Year Ending	Total Revenue	Membership Dues (Part of Total Revenue)	Program Services	Management & General	American Fraternal Programmers (Part of Mgt & Gen)
1985	$288,520	$185,987	$ 99,235	$111,324	$ 85,405
1984	136,483	109,111	68,422	51,576	35,624
	$425,003	$295,098	$167,657	$162,900	$121,029

at any one time is 60 shares of common no par value stock."[33] Article Nine shows that the shares of stock were apportioned evenly—30 for Arenberg, 30 for Van Brode.[34] On the Form 990 dated April 14, 1986, and submitted by NACOP for the 1985 tax year, it is stipulated that American Fraternal Programmers, Inc., "is owned by two directors of the National Association of Chiefs of Police."[35] In documents filed with the state of Florida, NACOP lists three directors—Arenberg, Van Brode and Shepherd.[36] On the Form 990 submitted by the Florida Crime Prevention Commission for the 1984 tax year, American Fraternal Programmers is identified as "owned by the directors of the Florida Crime Prevention Commission, G.S. Arenberg and D.B. Van Brode IV."[37]

As is demonstrated in Table 1, payments made to American Fraternal Programmers for the several years and organizations for which IACP has received Form 990s total over $670,000.[38] This amount does not include $85,000 in payments for management services not identified as being rendered by a particular firm.[39] In addition, the Forms 990 show that payments to American Fraternal Programmers by NACOP and AFP are in excess of 20 percent of total revenue received by each of those organizations and are almost equal in amount to expenditures for program services, which are those expenses directly related to the purpose for which the tax exemption was granted. These data are presented in Table 2, 3 and 4.[40]

A close examination of Table 2, NACOP Revenue and Expenditures for Tax Years 1984 and 1985,[41] reveals the following information:

- Of total revenue received by NACOP for the 1984 and 1985 tax years ($425,003), American Fraternal Programmers was paid 28 percent of that total ($121,029).
- Payments to American Fraternal Programmers were 41 percent of total moneys received from NACOP membership dues ($295,098) during this period; in other words, for each dollar received by NACOP from membership dues, 41 cents was paid to American Fraternal Programmers.
- American Fraternal Programmers received 74 percent of the total expenditures for NACOP's management and general expenses ($121,029 out of $162,900).
- Expenditures for NACOP management and general expenses ($162,900) were almost equal to expenditures on program services ($167,657). In other words, for every dollar spent on program services, 97 cents was spent on management.
- For every dollar expended by NACOP on program services ($167,657), 73 cents was paid to American Fraternal Programmers ($121,029).
- Of the total revenue received by NACOP for these two years ($425,003), only 39 percent ($167,657) was spent on program services.

A close examination of Table 3, AFP Revenue and Expenditures for Tax Years 1982, 1984 and 1985,[42] reveals the following information:

Table 3

AFP—Revenue and Expenditures for Tax Years 1982, 1984 and 1985

	Revenue		Expenses		
Tax Year Ending	Total Revenue	Membership Dues (Part of Total Revenue)	Program Services	Management & General	American Fraternal Programmers (Part of Mgt & Gen)
1985	$ 437,112	$ 322,099	$150,286	$183,179	$136,645
1984	447,602	318,164	167,099	165,413	135,288
1982	1,041,273	489,425	195,939	181,292	135,907
	$1,925,987	$1,139,688	$513,324	$529,884	$407,840

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Table 4

Combined Revenue and Expenditures for AFP and NACOP for 1984 and 1985

	Revenue		Expenses		
Tax Year Ending	Total Revenue	Membership Dues (Part of Total Revenue)	Program Services	Management & General	American Fraternal Programmers (Part of Mgt & Gen)
1985	$ 725,632	$518,086	$249,521	$294,503	$222,050
1984	584,085	427,275	235,521	216,989	170,912
	$1,309,717	$945,361	$485,042	$511,492	$392,962

• Although total revenues received by the American Federation of Police (AFP) dropped precipitously from 1982 ($1,041,273) to 1984 and 1985 ($447,602 and $437,112, respectively), payments to American Fraternal Programmers for "management fees" remained fairly constant ($181,292, $165,413 and $193,179).

• For the three years for which information is available, only 27 percent of total revenue received by AFP was expended on program services ($513,324 out of $1,925,987).

• American Fraternal Programmers received 77 percent of the total expenditures by AFP for management and general expenses.

• Payments to American Fraternal Programmers totaled 36 percent of total moneys received by AFP from membership dues ($407,840 compared to $1,139,688)—that is, for each dollar received by AFP from membership dues, 36 cents was paid to American Fraternal Programmers.

• Payments for management and general services ($529,884) exceeded the amount expended for program services ($513,324).

• For every dollar spent by AFP on program services, 80 cents was paid to American Fraternal Programmers.

• Of the total revenue reported by AFP for tax years 1982, 1984 and 1985 ($1,925,987), 21 percent ($407,840) was paid out to American Fraternal Programmers for "management fees."

A close examination of Table 4, Combined Revenue and Expenditures for AFP and NACOP for 1984 and 1985,[43] reveals the following information:

• Thirty percent of total revenue received by AFP and NACOP for those two years was paid to American Fraternal Programmers ($392,962 out of $1,309,717).

• For every dollar spent on program services ($485,042), 79 cents was paid to American Fraternal Programmers.

• Expenditures for management and general expenses ($511,492) exceeded expenditures made for program services ($485,042).

• Of total revenue ($1,309,717), only 37 percent was spent on program services ($485,042).

• Of the total expenditures by NACOP and AFP for management and general expenses, 77 percent was paid to American Fraternal Programmers for "management fees."

Summary

This article presents information drawn from state and federal records available to the public. The records show that Gerald Arenberg has incorporated 30 businesses, both for-profit and nonprofit in nature, and that among them are such corporations as Mercenary Magazine, Inc., the Confederate States Navy, Inc., and The Venerable Order of the Knights of Michael the Archangel, Inc. His corporations often change names; the National Association of Chiefs of Police was formerly the National Police Museum and later the International Academy of Criminology. Almost all of Arenberg's organizations are or have been located at 1100 N.E. 125th Street, North Miami, FL 33161. All thirty of the corporations list Arenberg as a director, and twenty-one list him as president. Derrick Van Brode is listed as a director of twenty-nine of the thirty corporations.

Arenberg and Van Brode are the co-owners of American Fraternal Programmers, Inc., a for-profit corporation doing business at the same North Miami address used by NACOP, AFP and almost all of the other organizations directed by Arenberg and Van Brode. Tax forms submitted to the IRS by NACOP, AFP and the Florida Crime Prevention Commission show payments of hundreds of thousands of dollars to American Fraternal Programmers, Inc., for "management fees"; for the 1984 and 1985 tax years, AFP and NACOP paid American Fraternal Programmers a combined total of $392,962 for "management fees" out of a total combined revenue of $1,309,717 received by the two non-profit corporations—in other words, 30 percent of total revenues. *

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[1]Computer printout issued by state of Florida Department of State, Division of Corporations, July 18 1986

[2]Id

[3]Id

[4]Id

[5]Id

[6]Id

[7]Id, Division of Corporations Document Number 711701

[8]Id, Division of Corporations Document Number 849714, also see American Federation of Police Articles of Incorporation

[9]Id, Division of Corporations Document Numbers P08185 and 846160, respectively

[10]Id, Division of Corporations Document Numbers 742559 and 434231, respectively

[11]Id, Division of Corporations Document Number 712789

[12]Id, Division of Corporations Document Number 742559

[13]Id, Division of Corporations Document Number 748797

[14]Id, Division of Corporations Document Number 540488

[15]Id, Division of Corporations Document Number 719918

[16]Id, Division of Corporations Document Number 712789

[17]Id

[18]Id

[19]Id, Division of Corporations Document Number 692994

[20]Id

[21]Id, Division of Corporations Document Number P08185

[22]The Venerable Order of Knights of Michael the Archangel, Inc., Articles of Incorporation

[23]Id

[24]E.S. Ely, "To Gerald Arenberg: Police Are Good Business," *Police Magazine*, November 1980, p. 30

[25]Interview with Gerald Arenberg, *Law Enforcement News*, November 25, 1985, p. 9

[26]See, for example, IRS forms 990 submitted by National Association of Chiefs of Police, Inc., Employer Identification Number 59-1164090, for tax years 1982, 1984 and 1985, and IRS Forms 990 submitted by American Federation of Police, Inc., Employer Identification Number 52-1127259, for tax years 1981, 1982, 1984 and 1985

[27]Id

[28]American Fraternal Programmers, Inc., Articles of Incorporation

[29]American Fraternal Programmers, Inc., Corporation Annual Report 1978, dated February 10, 1978, filed with state of Florida Department of State, Division of Corporations

[30]American Fraternal Programmers, Inc., Corporation Annual Report 1987, dated April 27, 1987, filed with state of Florida Department of State, Division of Corporations

[31]American Fraternal Programmers, Inc., Articles of Incorporation and Corporation Annual Reports 1977 through 1987

[32]Computer printout issued by state of Florida Department of State, Division of Corporations, July 18, 1986

[33]American Fraternal Programmers, Inc., Articles of Incorporation, Article Three

[34]American Fraternal Programmers, Inc., Articles of Incorporation, Article Nine

[35]IRS, form 990 submitted by National Association of Chiefs of Police, Inc., for tax year 1985

[36]Computer printout issued by state of Florida Department of State, Division of Corporations, July 18, 1986, Division of Corporations Document Number 712789

[37]IRS, Form 990, submitted by Florida Crime Prevention Commission, Inc., Employer Identification Number 59-1764219, for tax year 1984

[38]IRS, Forms 990 submitted by American Federation of Police, Inc., Employer Identification Number 52-1127259, for tax years 1981, 1982, 1984 and 1985; IRS Forms 990 submitted by National Association of Chiefs of Police, Inc., Employer Identification Number 59-1164090, for tax years 1982, 1984 and 1985; and IRS Forms 990 submitted by Florida Crime Prevention Commission, Inc., Employer Identification Number 59-1764219, for tax years 1982, 1983 and 1984

[39]See IRS Forms 990 submitted by American Law Enforcement Officers Association, Citizens Band Radio Patrol, Inc., Employer Identification Number 59-1742848, for tax years 1980 ($36,632), 1981 ($27,303) and 1982 ($22,068); total for 1980, 1981, and 1982: $86,003

[40]IRS, Forms 990 submitted by American Federation of Police, Inc., Employer Identification Number 52-1127259, for tax years 1982, 1984 and 1985; IRS Forms 990 submitted by National Association of Chiefs of Police, Inc., Employer Identification Number 59-1164090, for tax years 1984 and 1985

[41]IRS, Forms 990 submitted by National Association of Chiefs of Police, Inc., Employer Identification Number 59-1164090, for tax years 1984 and 1985

[42]IRS, Forms 990 submitted by American Federation of Police, Inc., Employer Identification Number 52-1127259, for tax years 1982, 1984 and 1985

[43]IRS, Forms 990 submitted by American Federation of Police, Inc., Employer Identification Number 52-1127259, and National Association of Chiefs of Police, Inc., Employer Identification Number 59-1164090, for tax years 1984 and 1985

Mr. VAUGHN. You have a person involved in direct mail using law enforcement as his tool. Mr. Arenberg served two decades ago as the Chief of Police in Gulf, Illinois. That is as listed in the Crime of the United States Book Summary of Law Enforcement Officers, a one-person Department. It has a chief who serves as a patrolman, dog catcher, and anything else that comes around.

Mr. Arenberg, as recently as 2 weeks ago, publicly mailed out information encouraging citizens to join the American Federation of Police. In that mailing he was addressed in a full command dress police uniform and represented himself as the assistant chief of the Reardon Washington Police Department.

We found that extremely curious because Mr. Arenberg is a resident of North Miami, Florida. When we investigated this claim of assistant chief in Reardon, Washington, we discovered Reardon, Washington, to be a six-member police department a few miles west of Spokane, Washington, and in talking to city officials, determined that no such position exists within the Reardon Police Department.

When pressing further, we determined that Mr. Arenberg, in cooperation with the police chief, was allowed to use that title to give himself credibility, even though he is not an employee or paid by the City of Reardon, Washington.

Now, with respect to the information contained in his article, or this article, here is a guy involved in mail order business, who represents himself as a person who speaks for law enforcement. We found it curious that he claimed to have polled 18,000 police chiefs and 3,000 sheriffs, particularly considering there are only 17,000 independent county and municipal enforcement agencies in the United States. And we consistently poll our members.

We have publicly challenged and privately challenged Mr. Arenberg to reveal the results of that poll and indicate who responded by name, title and agency. He has refused to do that. We have repeatedly challenged Mr. Arenberg to provide his membership list and subject it to verification as we would ourselves.

He has refused all requests to verify anything that he has done publicly. I would submit for the record, if you want to enter it, the membership list of the International Association of Chiefs of Police, so that anybody who has a question about who our organization is—or who we represent, can go to it and call any one of them to see if they are members of IACP.

In November of 1987 we polled the entire readership of Police Chief Magazine (approximately 24,000 police officials, not all of whom are chiefs), about their feelings regarding the specific issues that Mr. Arenberg purported to poll the 21,000 people. Well, we would not even insult your intelligence by suggesting for a minute that that many people responded to a poll. That is why we found it highly curious that Mr. Arenberg could accomplish something that the most skilled survey people have never been able to accomplish.

That is a return rate of such high proportions. Our ongoing experience clearly shows that a 1 to 3 percent return is pretty standard on major surveys. But I will make available to you not only the questions, but the results of that survey, and for anybody who would like to verify that survey, we will provide the names, titles and agencies of those who responded.

Do you believe a waiting period and thorough background investigation would help keep firearms out of the wrong hands? Of the first 226 police agency heads of publicly funded law enforcement agencies who responded, 190 said, yes, they believe a waiting period and thorough background investigation would help. Thirty-four said no. Two had no opinion.

Do you believe that legislation providing for waiting periods and background investigations for firearms purchasers exposes you as the Chief of Police to unreasonable liability? Arenberg reported that police chiefs, 96 percent of the police chiefs, felt the waiting period exposed them to liability. Ours said, nonsense. There is no liability there. One hundred ninety-seven of the 226 said absolutely not.

Do you support reasonable firearms management as one element of a comprehensive violence reduction strategy? Two-hundred nine said, yes. I think I will give this to you for the record.

Mr. HUGHES. Without objection, the survey will be received for the record and can you conclude your comments?

[The information was not submitted:]

Mr. VAUGHN. Beyond that we are faced with a critical situation in the United States today, faced with a choice. We can do something or we can do nothing. Just reading the papers day in and day out, how can we sit idly by and watch the carnage created by guns in the wrong hands, the hands of criminals, crazies, and incompetents continue at its current rate.

This morning the cover of U.S. Today reports that 62 percent of the American public believe that the requirements to purchase handguns should be made stricter. We hear the pro gun people, some of the paranoid zealots who proclaim that gun laws don't work, haven't worked, will never work or that gun laws, any gun law is the foot in the door that will lead to the confiscation of weapons. This is simply not true. Gun laws do work.

I would submit for the record a copy of a firearms management position paper recently compiled which takes all of the resolutions passed by the membership, as identified in this membership directly, who are the true police officials of this country and submit it for the record.

In the back are pages I would commend to your attention a comparison of other democratic nations and their gun laws and their corresponding homicide rates to comparable cities in the United States. In each of those democratic nations surveyed, they have a waiting period and extensive background investigation by the local police authority, issuance of a permit to acquire the weapon and possess it and stiff penalties actually carried out.

Our rate of homicide related directly to guns in the United States is our national disgrace, and we are faced with the opportunity to do something or to do nothing. If we do nothing, then we better be prepared to pay the consequences for an increasingly violent society.

Mr. HUGHES. Thank you very much, Mr. Vaughn for clarifying that point for us.

[The statement of Mr. Vaughn follows:]

TESTIMONY BY

THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

CONCERNING

H.R. 155 AND H.R. 975

BILLS TO PROVIDE FOR A WAITING PERIOD FOR HANDGUN PURCHASE

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

HOUSE COMMITTEE ON THE JUDICIARY

FEBRUARY 24, 1988

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

POLICE

The International Association of Chiefs of Police is a professional organization comprised of over 14,500 top law enforcement executives from the United States and 68 nations. IACP members lead and manage several hundred thousand law enforcement officers and civilian employees in international, federal, state and local governments. Members in the United States direct the nation's largest city police departments including New York City, Los Angeles, Chicago, Detroit, Houston and others, as well as suburban and rural departments throughout the country.

Since 1893, the IACP has facilitated the exchange of important information among police administrators and promoted the highest possible standards of performance and conduct within the police profession. This work is carried out by functionally oriented committees consisting of police practitioners with a high degree of expertise that provide contemporary information on trends, issues and experiences in policing for development of cooperative strategies, new and innovative programs and positions for adoption through resolution by the association.

Throughout its existence, the IACP has been devoted to the cause of crime prevention and the fair and impartial enforcement of laws with respect for constitutional and fundamental human rights.

Jerald R. Vaughn was appointed executive director of the 14,500-member International Association of Chiefs of Police on September 10, 1985. Established in 1893, the IACP currently has members in 68 nations.

As the executive director, Vaughn oversees all organizational activities at IACP's World Headquarters near Washington, D.C. and each of its international regional division offices. He has over 20 years of progressively responsible police experience, including having served as the chief of police in two cities. He was decorated for service above and beyond the call of duty by the governor of the state of Colorado while serving as an undercover agent in a federally funded drug task force. He holds a master's degree in public administration and a bachelor's degree in the administration of justice.

Director Vaughn serves on the United Nations Commission on Narcotics and Dangerous Drugs in Vienna, Austria and is the IACP representative to Interpol in St. Cloud, France. He is on the advisory boards of the FBI/DEA Sports Drug Awareness Council, the National Institute Against Prejudice and Violence, the Federal Law Enforcement Training Center and the Law Enforcement Memorial Trust. He is on the 13-member National Law Enforcement Council and has served as the chairman of the Law Enforcement Steering Committee, which is comprised of the major police representative organizations in the United States. He served as the cofacilitator of the National Cooperative Drug Strategy and Demand Reduction Project, which was a joint endeavor by the IACP, the Drug Enforcement Administration and the Justice Department's Bureau of Justice Assistance. He oversees the Police Policy Resource Center and the Deadly Force Reduction Program of IACP. He is editor-in-chief of *Police Chief* magazine, *IACP News*, and the *Journal of Police Science and Administration.*

EXECUTIVE SUMMARY OF IACP TESTIMONY

OUR ASSOCIATION SUPPORTS LEGISLATION THAT WILL REQUIRE A REASONABLE WAITING PERIOD TO BE OBSERVED BEFORE A HANDGUN MAY BE PURCHASED. IN OUR OPINION, THE MERITS OF THIS ISSUE ARE CLEAR, AND URGE UNEQUIVOCAL SUPPORT OF THIS LEGISLATION:

1. EVERY YEAR THOUSANDS OF CONVICTED FELONS, FUGITIVES FROM JUSTICE, AND OTHER PROHIBITED PURCHASERS APPLY FOR PERMITS TO PURCHASE HANDGUNS. THEY ARE DETECTED BY WAITING PERIODS ALREADY IN PLACE (IN EIGHTEEN STATES) AND ARE NOT PERMITTED TO PURCHASE HANDGUNS.

2. MANY CRIMES ARE COMMITTED IN THE HEAT OF PASSION, WHEN EMOTION HAS WON OUT OVER REASON. A WAITING PERIOD PROVIDES A "COOLING OFF" PERIOD.

3. WAITING PERIODS DO NOT INFRINGE UPON OUR CONSTITUTIONAL RIGHT TO OWN A FIREARM. IACP SUPPORTS THE RIGHT OF ALL LAW ABIDING CITIZENS TO KEEP AND HAVE ARMS AND WE SUPPORT THE LEGITIMATE SPORTING, RECREATIONAL, LAW ENFORCEMENT AND PRIVATE SECURITY USES OF FIREARMS.

4. A WAITING PERIOD BILL IS NOT ANOTHER ANTI-GUN PROPOSAL OR AN ATTEMPT AT REGISTRATION OF GUN-OWNERS.

I WOULD CALL THE SUBCOMMITTEE'S ATTENTION TO A COMPARISON WE HAVE DONE BETWEEN HOMICIDE RATES IN THE U.S. AND SEVERAL OTHER DEMOCRATIC NATIONS. IN EACH COUNTRIES IDENTIFIED, THERE PRESENTLY EXISTS 1) A WAITING PERIOD; 2) AN EXTENSIVE BACKGROUND INVESTIGATION BY THE LOCAL POLICE; 3) ISSUANCE OF A PERMIT TO ACQUIRE THE WEAPON AND TO POSSESS IT; AND 4) STIFF PENALTIES THAT ARE ACTUALLY CARRIED OUT FOR VIOLATION OF FIREARMS LAWS; AND 5) SEPARATE PROVISIONS FOR SHOTGUNS AND LONG GUNS THAT ALLOW FOR LEGITIMATE SPORTING AND RECREATIONAL USES. THE STATISTICS SPEAK FOR THEMSELVES: THE UNITED STATES FAR AND ABOVE OUTSTRIPS THE EUROPEAN NATIONS AND CITIZENS IN HOMICIDES.

GOOD MORNING CHAIRMAN HUGHES AND SUBCOMMITTEE MEMBERS. I AM JERALD VAUGHN, EXECUTIVE DIRECTOR OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE. ON BEHALF OF CHIEF JOE CASEY, IACP'S PRESIDENT AND THE ENTIRE EXECUTIVE COMMITTEE, I THANK YOU FOR INVITING US TODAY TO TESTIFY ON THIS IMPORTANT SUBJECT.

THROUGHOUT ITS HISTORY, THE IACP HAS INVOLVED ITSELF IN ISSUES THAT ADVANCE THE WELFARE AND WELL-BEING OF THE CITIZENS OUR MEMBERS ARE SWORN TO PROTECT. WE HAVE JUST SUCH AN ISSUE BEFORE US TODAY. OUR ASSOCIATION SUPPORTS LEGISLATION THAT WILL REQUIRE A REASONABLE WAITING PERIOD TO BE OBSERVED BEFORE A HANDGUN MAY BE PURCHASED. WE OFFICIALLY ADOPTED THIS POSITION BY RESOLUTION IN 1981. WE REAFFIRMED THIS POSITION IN 1987 AT OUR ANNUAL CONFERENCE IN TORONTO, CANADA WHEN OUR MEMBERSHIP PASSED ANOTHER RESOLUTION SPECIFICALLY SUPPORTING H.R. 975 AND S. 466.

IN OUR OPINION, THE MERITS OF THIS ISSUE ARE CLEAR, AND URGE UNEQUIVOCAL SUPPORT OF THIS LEGISLATION:

1. EVERY YEAR THOUSANDS OF CONVICTED FELONS, FUGITIVES FROM JUSTICE, AND OTHER PROHIBITED PURCHASERS APPLY FOR PERMITS TO PURCHASE HANDGUNS. THEY ARE DETECTED BY WAITING PERIODS ALREADY IN PLACE (IN EIGHTEEN STATES) AND ARE NOT

PERMITTED TO PURCHASE HANDGUNS. THE FACT THAT THIS HAS OCCURRED AND CONTINUES TO OCCUR SHOWS THAT THESE TYPES OF LAWS SERVE A USEFUL FUNCTION.

THE RECORD IS COMPLETE FROM THE STATES THAT HAVE LAWS. THEY WORK. WE NEED LOOK NO FURTHER THAN MARYLAND. THIS STATE HAS PROVIDED STATISTICS SHOWING THAT THE LAW SERVES A PURPOSE THERE. OPPONENTS SAY THAT THESE LAWS DO NOTHING TO PREVENT CRIMINALS FROM PROCURING FIREARMS BECAUSE IT IS VERY EASY TO GET FIREARMS ON THE BLACK MARKET. THAT IS PROBABLY TRUE, BUT IT DOES NOT CHANGE THE FACT THAT FELONS CONTINUE TO BE CAUGHT ATTEMPTING TO PURCHASE HANDGUNS. (MANY FELONS SECURE FIREARMS BY STEALING THEM FROM CITIZENS WHO HAVE THEM IN THEIR HOME BUT FAIL TO ADEQUATELY SECURE THEM.) IF IT IS SO EASY TO PURCHASE THEM ON THE BLACK MARKET, WHY DO THEY BOTHER TO FILL OUT THE FORMS WHICH EVENTUALLY DIVULGE THEIR CRIMINAL BACKGROUNDS? PRESIDENT REAGAN ALMOST DIED BECAUSE JOHN HINKLEY PURCHASED A HANDGUN IN TEXAS, NOT THE STATE OF HIS RESIDENCE. A WAITING PERIOD COUPLED WITH A REASONABLE BACKGROUND INVESTIGATION COULD HAVE DISCOVERED HIS LIE.

2. MANY CRIMES ARE COMMITTED IN THE HEAT OF PASSION, WHEN EMOTION HAS WON OUT OVER REASON. WE BELIEVE THAT A WAITING PERIOD PROVIDES A "COOLING OFF" PERIOD;"TIME TO THINK" IS SOMETIMES ALL THAT IS NEEDED TO RESOLVE A DOMESTIC

DISPUTE, A FAMILY PROBLEM, OR AN EMPLOYEE-EMPLOYER MATTER IN A NONVIOLENT MANNER. WE ALL RECALL THE DISGRUNTLED STOCK OWNER WHO KILLED HIS BROKER AND SHOT HIMSELF UPON LEARNING OF THE CRASH OF THE STOCK MARKET RECENTLY. HE HAD JUST PURCHASED A HANDGUN, PRESUMABLY FOR THAT PURPOSE. WE BELIEVE THAT A WAITING PERIOD COULD HAVE GIVEN HIM, AND OTHERS LIKE HIM, AN OPPORTUNITY TO DEVISE A NONLETHAL OPTION TO RESOLVE HIS PROBLEM.

3. WAITING PERIODS DO NOT INFRINGE UPON OUR CONSTITUTIONAL RIGHT TO OWN A FIREARM. IACP SUPPORTS THE RIGHT OF ALL LAW ABIDING CITIZENS TO KEEP AND HAVE ARMS AND WE SUPPORT THE LEGITIMATE SPORTING, RECREATIONAL, LAW ENFORCEMENT AND PRIVATE SECURITY USES OF FIREARMS. WAITING PERIODS DO NOT INTERFERE WITH THIS RIGHT. ANY PERSON WHO IS LEGALLY QUALIFIED TO OWN A HANDGUN CAN OWN ONE IN A STATE WITH A WAITING PERIOD. IT WILL SIMPLY TAKE SEVEN DAYS LONGER TO DO SO. IF THERE IS AN EMERGENCY AND THE NEED IS IMMEDIATE, THIS LAW WILL ACCOMMODATE SUCH A NEED. THIS LAW DOES NOT MANDATE A BACKGROUND CHECK; IT GIVES THE LOCAL LAW ENFORCEMENT OFFICIAL THE DISCRETION TO CONDUCT ONE. IACP WILL ENCOURAGE ITS MEMBERS TO CONDUCT A CHECK IN EVERY INSTANCE. THIS IS THE ONLY WAY TO BE SURE. SO--- OUR QUESTION TO THIS BILL'S OPPONENTS IS WHO DOES IT HURT? WE FEEL THAT CRIMINALS ARE THE ONLY ONES HURT IN THIS BILL. WE FIND NOTHING IN

THE CONSTITUTION THAT MANDATES GUNS UPON DEMAND.

4. A WAITING PERIOD BILL IS NOT ANOTHER ANTI-GUN PROPOSAL OR AN ATTEMPT AT REGISTRATION OF GUN-OWNERS. ALL OF THE MAJOR LAW ENFORCEMENT ORGANIZATIONS SUPPORT THIS LEGISLATION. POLICE OFFICERS ARE NOT "ANTI-GUN". GUNS ARE THE TOOLS OF OUR TRADE. MANY OFFICERS ARE AVID SPORTSMEN AND COLLECTORS OF GUNS. IACP DOES NOT SUPPORT THE BANNING OF PRIVATE OWNERSHIP OR POSSESSION OF HANDGUNS. WE HAVE NEVER SUPPORTED SUCH A POSITION AND WE DO NOT NOW. WE DO SUPPORT MEASURES TO EFFECTIVELY MANAGE PRIVATE OWNERSHIP AND POSSESSION IN THE INTEREST OF PUBLIC SAFETY. POLICE CHIEFS WHO CONDUCT BACKGROUND CHECKS ARE REQUIRED BY THIS BILL TO DESTROY THE SWORN STATEMENTS OF QUALIFIED PURCHASERS WITHIN 60 DAYS. THEREFORE, NO REGISTRATION EXISTS!!!

CHAIRMAN HUGHES, I WOULD LIKE TO ENTER INTO THE RECORD OF THE HEARING TODAY A COPY OF THE IACP'S OFFICIAL POSITION ON FIREARMS MANAGEMENT. I WOULD CALL THE SUBCOMMITTEE'S ATTENTION TO A COMPARISON WE HAVE DONE BETWEEN HOMICIDE RATES IN THE U.S. AND SEVERAL OTHER DEMOCRATIC NATIONS. IN EACH OF THE FOREIGN COUNTRIES IDENTIFIED, THERE PRESENTLY EXISTS 1) A WAITING PERIOD; 2) AN EXTENSIVE BACKGROUND INVESTIGATION BY THE LOCAL POLICE AUTHORITY; 3) ISSUANCE OF A PERMIT TO ACQUIRE THE WEAPON AND TO POSSESS IT; AND 4) STIFF

PENALTIES THAT ARE ACTUALLY CARRIED OUT FOR VIOLATION OF FIREARMS LAWS. ALSO, EACH NATION HAS SEPARATE PROVISIONS FOR SHOTGUNS AND LONG GUNS THAT ALLOW FOR LEGITIMATE SPORTING AND RECREATIONAL USES.

THE STATISTICS SPEAK FOR THEMSELVES: THE UNITED STATES FAR AND ABOVE OUTSTRIPS THE EUROPEAN NATIONS AND CITIZENS IN HOMICIDES. THE POLICE OFFICIALS IN THE IDENTIFIED NATIONS BELIEVE THAT THE GUN LAWS THERE ARE PART OF THE REASON FOR THE LOWER HOMICIDE RATES. WE BELIEVE SO ALSO.

WE TOTALLY SUPPORT H.R. 975. WE DO NOT SUGGEST THAT THIS TYPE OF LEGISLATION IS A PANACEA FOR ALL VIOLENT CRIME BUT WE DO FEEL THAT IT SERVES A LEGITIMATE PURPOSE AND WILL HELP LAW ENFORCEMENT FIGHT CRIME AND WILL HELP PROTECT INNOCENT CITIZENS AND LAW ENFORCEMENT OFFICERS FROM SENSELESS VIOLENCE.

THANK YOU AGAIN. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

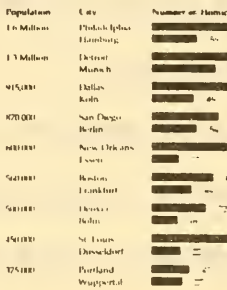
Do Gun Laws Work?

Police officials in other democratic nations believe they do and have supplied the information illustrated below. In each of the nations identified, they have a strong national firearms law that requires:

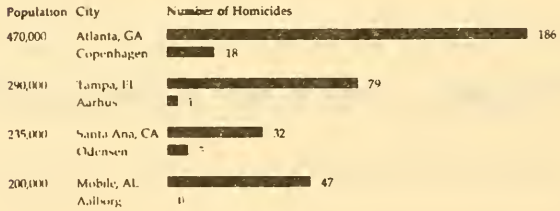
- A waiting period
- An extensive background investigation by the local police authority
- Issuance of a permit to acquire the weapon and to possess it
- Stiff penalties that are actually carried out for violation of firearms laws

Each nation has separate provisions for shotguns and long guns that allow for legitimate sporting and recreational uses.

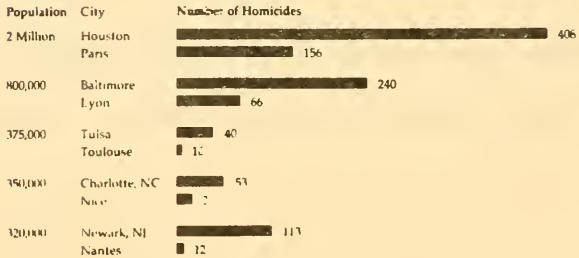
Comparison of Homicide Rates—U.S. and West Germany



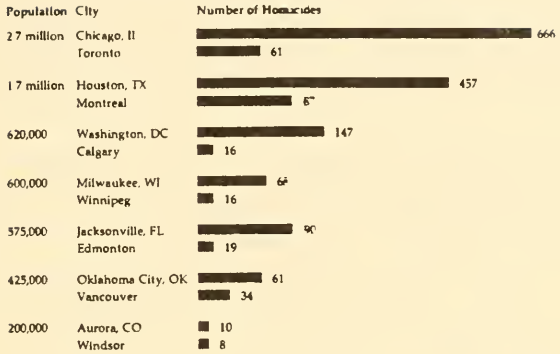
Comparison of Homicide Rates—U.S. and Denmark



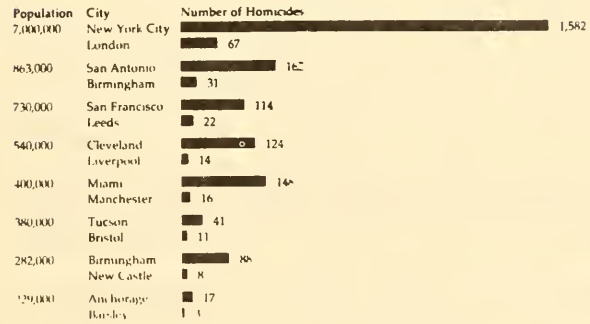
Comparison of Homicide Rates—U.S. and France



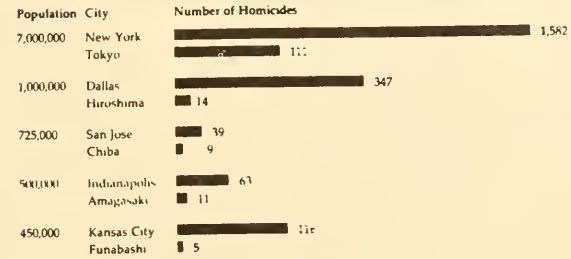
Comparison of Homicide Rates—U.S. and Canada



Comparison of Homicide Rates—U.S. and Great Britain



Comparison of Homicide Rates—U.S. and Japan



Mr. HUGHES. Mr. Spurlock, welcome.

Mr. SPURLOCK. Thank you, Mr. Chairman.

Members of the Subcommittee on Crime, it is a privilege to present testimony this morning on the issues of a waiting period for the purchase of a handgun. In addition to representing middle managers from across the country as President of the Police Management Association, I am also a police inspector here in Washington, DC.

I currently serve as a commander of the Repeat Offender Project of the Special Operations Division. I am a practitioner who works daily with the firearms problem proliferated by the proximity of a neighboring State that has no waiting period.

My department seizes an average of 10 firearms per day; 10 so far this year. A very large percentage of the firearms are being traced to gun dealers and States with no waiting periods. On February 19th, those of you who read the Post and the Times, two Virginia men were arrested in the District of Columbia and found to possess 10 firearms in their automobile. On the same day on a separate incident, five men, three of whom were from Florida, were arrested while in possession of three firearms.

Two separate instances spaced 12 hours and four miles apart, totaling 13 firearms, three of the eight arrested being Virginia and Florida residents, two States that have no waiting period—the first incident occurred 14 city blocks from where we are sitting right now; the second one, 31 city blocks. This data is current and supportive of the Department of Justice studies that found that 21 percent of criminals obtain their handguns from gun dealers. The Bureau of Alcohol, Tobacco and Firearms report as a result of their study on handgun use in crime, that 4 percent of the handguns used in crimes in New York were purchased in that State, only 4 percent.

Eight percent of those used in Detroit was purchased in the State of Michigan. The remainder were purchased in States having no waiting period for background checks. In cities without waiting periods, a large majority of the handguns used in crimes were purchased in the same State. In Dallas, Texas, the figure reached an alarming 7 percent.

The facts clearly reveal the need for a national waiting period. Such a law would ensure that handguns are not purchased in a State without waiting periods or background checks and then sold in States that do background checks with a mandatory waiting period. A national waiting period would ensure that local legislative intent is not subverted.

The District of Columbia Council with congressional approval passed one of the toughest gun laws in the Nation. It wasn't one that had called for a waiting period. The citizens of the District of Columbia said we don't want handguns at all. Yes, we in the District are being overrun with guns imported from States that have no waiting period.

They are those that would argue that a waiting period and background check should be left up to the States and not to Congress. I submit that only Congress, by mandating a waiting period, can restore integrity to State and local governments concerning this issue. The State of Virginia and others have made it almost impos-

sible to enforce the District law by their unreasonable inaction in requiring a waiting period.

A background check would reveal phony addresses, criminal records and assist law enforcement as they face the heavily armed criminal element every day. In the near future, they will take my six-shot off my side and give me a 9 millimeter semi-automatic pistol. What will they give me after that? Talk about an escalating war with Russia; what about one on our streets.

Mr. Chairman, the police management association as a membership organization, and as a member of the law enforcement steering committee, I strongly support a waiting period and background checks as defined in the Brady bill.

Mr. HUGHES. Thank you very much, Inspector.

[The statement of Mr. Spurlock follows:]

BIOGRAPHICAL SKETCH

Inspector Edward J. Spurlock

* Born Columbia, South Carolina
* Former United States Marine
* Bachelor of Science in the Administration of Justice, American University, Washington, D.C.
* President, Police Management Association (PMA), an international, nonprofit membership organization dedicated to the professionalization of police managers, with offices here in Washington, D.C.
* Currently serving as consultant to the National District Attorney's Association, the Police Executive Research Forum and the National Institute of Justice
* Lectures nationally and internationally as a subject matter expert in pro-active, perpetrator oriented tactics and management principles
* Developed the Repeat Offender Project in Washington, D.C., 1982
* Assisted more than 25 jurisdictions in establishing the Repeat Offender Project program.
* The Inspector and his unit have been depicted on national T.V. on 'Sixty Minutes' and many other media events

The following is a synopsis of a prepared statement made by Inspector Edward J. Spurlock, President of Police Management Association, Washington, DC, testifying before the U.S.House of Representatives Committee on the Judiciary, Subcommittee on Crime:

* Metropolitan DC police seize average of 10 Firearms per day with the majority traced to gun dealers in states with no waiting period.

* February 19, 1988 two Virginia men were arrested in DC with 10 firearms found in their auto. On same date, in separate incidents, 5 men, 3 from Florida, were arrested in possession of three firearms.

  These two separate incidents totaled 13 firearms. Five of the eight arrested were Virginia and Florida residents, two states that have no waiting period.

* Department of Justice study found 21 percent of criminals obtain their handguns through gun dealers.

* Bureau of Alcohol, Tobacco and Firearms study reported only 4 percent of handguns used in NY crimes were purchased in NY, and only 8 percent used in Detroit crimes were purchased in Michigan. The remainder were obtained from states with no waiting period or background checks.

* In Cities without waiting periods, the vast majority of handguns used in crimes were purchased in the same state - In Dallas, Texas, this figure has reached 87 percent.

The facts clearly reveal the need for a national waiting period. This would ensure that handguns are not purchased in a state without waiting periods or background checks, and then sold in states that do background checks during a mandatory waiting period. A national waiting period would assure that the local legislative intent is not subverted.

Statement of Inspector Edward J. Spurlock, President, Police Management Association, Washington, D.C., before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Crime:

Mr. Chairman and members of the Subcommittee on Crime, it is a privilege to present testimony this morning on the issue of a waiting period for the purchase of a handgun as described in H.R. 975.

In addition to representing middle managers from across the country as President of the Police Management Association (PMA), I am also a police inspector here in the District of Columbia. I currently serve as the Commander of the Repeat Offender Project (ROP) of the Special Operations Division. I am a practitioner who works daily with a firearm problem proliferated by the proximity of a neighboring state that has no waiting period before taking possession of a handgun. My Department has seized an average of ten firearms per day this year, and a very large percentage of these firearms are being traced to gun dealers in states that have no waiting period. On February 19, 1988, two Virginia men were arrested in the District of Columbia and found to possess ten firearms in their auto. On that same day in a separate incident, five men, three of whom were from Florida, were arrested while in possession of three firearms. These were two separate incidents spaced 12 hours and 4 miles apart, totaling 13 firearms; five of the eight arrested being Virginia and Florida residents, two states that have no waiting period.

Co-incidently, the first incident occurred just 14 city blocks from the House of Representatives and the second, 31 city blocks away.

This data is current and supportive of the Department of Justice study which found that at least 21 percent of criminals obtain their handguns through gun dealers. The Bureau of Alcohol, Tobacco and Firearms (BATF) reported as a result of their study of handguns used in crime, that only 4 percent of the handguns used in crimes in New York were purchased in that State and only 8 percent of those used in Detroit were purchased in Michigan. The remaining were purchased in states having no waiting periods or background checks.

In cities without waiting periods, a large majority of handguns used in crimes were purchased in the same state - in Dallas, Texas, the figure reaches an alarming 87 percent.

The facts clearly reveal the need for a national waiting period. Such a law would insure that handguns are not purchased in a state without waiting periods or background checks and then sold in states that do background checks during a mandatory waiting period. A national waiting period would assure that the local legislative intent is not subverted. The District of Columbia City Council, with Congressional approval, passed one of the toughest gun control laws in the nation, yet we in the District are being over-run with guns imported from states that have no waiting period or background check. There are those that would argue that a waiting period and background check should be left up to the states and not the Congress. I submit that only Congress, by mandating a waiting period, can restore integrity to state and local governments concerning this issue.

The State of Virginia and others have made it almost impossible

to enforce the District's law by their unreasonable inaction in requiring a waiting period. A background check will reveal phoney addresses, criminal records, etc., and would assist law enforcement as they face the heavily armed criminal element each day.

Mr. Chairman, the Police Management Association, as a membership organization and as a member of the Law Enforcement Steering Committee, support a waiting period and background check as defined in the Brady Bill, H.R. 975/S. 466.

EST 1980

POLICE MANAGEMENT ASSOCIATION

1001 22nd Street N.W. Suite 200, Washington, D.C. 20037 (202) 833-1460

Incorporated in the District of Columbia in 1980, the Police Management Association (PMA) is a private, international, nonprofit membership organization. Membership is increasing rapidly and PMA currently has enrolled over 1600 law enforcement personnel in the United States and twelve other countries. Recruiting efforts are targeted to middle managers ranking from sergeant through executive heads of police agencies, as well as civilian law enforcement personnel who qualify also within PMA's four membership categories.

Challenged with the complex problems of policing and guided by six principles, PMA seeks to upgrade police management and ultimately to professionalize policing at all levels.

PMA believes that through continual research, experimentation, and exchanges of ideas through public discussion and debate, development of a professional body of knowledge about policing will be enhanced.

In addition to conducting management training seminars, PMA publishes a newsletter, and readership reaches well beyond its membership. An annual conference draws together both an international membership and representatives of major law enforcement organizations in the United States.

Mr. HUGHES. Chief Tapscott, welcome.

Mr. TAPSCOTT. Thank you very much. Good seeing you. I want to express to you and the subcommittee my thanks for giving me an opportunity to speak to you about this very important issue and on behalf of the National Organization of Black Law Enforcement Executives, and I will be brief as most of the witnesses. What I had in my statement has already been said and repeated here on numerous occasions, so I will try not to repeat that and bother the subcommittee with the statistics.

A few I would like to cite to you, the national—can you hear me?

Mr. HUGHES. We can hear you.

Mr. TAPSCOTT [continuing]. National Law Enforcement of Black Law Enforcement Executives, joins with the other leading law enforcement organizations in strong support of congressional bill H.R. 975. We strongly support a 7-day waiting period in order to prevent the sale and transfer of a firearm to those prohibited by law to possess them. Crime in America has reached frightening levels, much of which has been caused by the proliferation of elicit drugs and guns, particularly the handgun resulting in mass carnage on the streets of our cities.

We also support the 7-day waiting period because it will provide a cooling-off period for those who in the heat of passion may use a weapon unlawfully.

Black on black crime is a special problem for America. It is a very, very special problem to NOBLE, a discussion germane to the issue of handguns and control of sale and transfer of such weapons. In no other racial or ethnic group does crime occur so disproportionately and, the problem is exacerbated by illegal handguns.

To cite a few brief statistics to you about that, while serving in Flint as Chief of Police in 1986, we had 61 homicides in that city which was a record. It set a record. There were 50 homicides in 1970, I believe. Sixty-five percent were black victims. Seventy-five percent of the known offenders were black. Forty-three of the victims were black males, 28 between the ages of 20 and 30 years. Sixty percent involved family members, friends or acquaintances.

Alcohol was present in 17 of the murders. Illegal drugs were present in 16 and a combination of alcohol and drugs were present in 21 of the murders. The firearm was a choice of weapon in 62 percent of the cases.

Since 1982 in the City of Flint, the firearm was used 65 percent of the time. About 70 miles south of Flint in the City of Detroit in 1986, a total of 364 teenagers, below the age of 17, were wounded by firearms and 43 were fatally wounded. In 1987 the totals were 336 wounded and 35 killed. As of February 22 of this year, the totals are 34 wounded and six killed.

The great majority of both victims and offenders were black. Twenty-one years ago the President's Commission on Law Enforcement and Administration of Justice strongly believed that the increasing violence in every section of the nation compelled an and effort to control possession and sale of many kinds of firearms that contributed to that violence.

The Commission also believed that the interest of persons desiring such weapons for legitimate purposes must be preserved as much as possible. NOBLE believes that todays violent crime rate

makes the Commission's wisdom of 21 years ago as appropriate today as it was then.

Thank you very much, Mr. Chairman.

Mr. HUGHES. Thank you very much, Chief.

[The statement of Mr. Tapscott follows:]

Testimony

Presented by Marty M. Tapscott

On Behalf of The National Organization of Black Law Enforcement Executives (NOBLE)

Congressional Bill H.R. 975/S.466 - "Brady Bill"

Summary of Testimony

The National Organization of Black Law Enforcement Executives (NOBLE) joins with the nation's other leading law enforcement organizations in strong support of Congressional Bill H.R. 975/S.466 known as the "Brady Bill." We strongly support a seven-day waiting period in order to prevent the sale and transfer of a firearm to those who are prohibited by law to possess them.

Crime in America has reached frightening levels, much of which has been caused by the proliferation of illicit drugs and guns, particularly the handgun, resulting in mass carnage on the streets of our cities.

NOBLE also supports the seven-day waiting period because it will provide a "cooling-off period" for those who, in a heat of passion, may use the weapon unlawfully.

Black on black crime is a special problem for all of America, and the discussion of this problem is germane to the issue of handguns and the control of the sale and transfer of such weapons. In no other racial or ethnic group does crime occur so disproportionately, and the problem is exacerbated by the proliferation of illicit drugs and handguns.

Twenty-one years ago, The President's Commission on Law Enforcement and Administration of Justice strongly believed that the increasing violence in every section of the nation compelled an effort to control possession and sale of the

many kinds of firearms that contribute to that violence. The Commission also believed that the interests of persons desiring such weapons for legitimate purposes must be preserved as much as possible.

Today's violent crime rate makes the Commission's wisdom of 21 years ago as appropriate today as it was then.

The National Organization of Black Law Enforcement Executives (NOBLE) joins with the nation's other leading law enforcement organizations in strong support of Congressional Bill H.R. 975/S.466 known as the "Brady Bill" which would require a seven-day waiting period before the sale and transfer of a handgun. We believe it is essential that law enforcement be given the opportunity to ascertain the eligibility of purchasers prior to any transfer of the handgun in order to reduce the chances of selling to those who are prohibited by law to own such a weapon.

In the year 1976, sixty black police executives met in Arlington, Virginia for the purpose of discussing crime in urban America, specifically focusing their attention on the serious crime problem in the black communities. Individually, there was a feeling of obligation, but the group quickly realized the importance of a collective approach to resolving the issues of crime in black America. Thus, the birth of NOBLE, an organization that has grown to over 1700 federal, state, and local mostly black law enforcement executives. Today, we are still grappling with this very complex issue and its equally complex solutions. Clearly, however, crime in America has reached frightening levels and will continue to spiral upward unless we interdict this problem with tough law enforcement, education, and legal sanctions. NOBLE's commitment to the reduction of the violence occurring in America today includes fair but tough law enforcement, education, and legal sanctions which are

tough on criminals, not weak on them.

We believe that it is just as clear that the frightening crime levels have been caused by the proliferation of illicit drugs and guns, particularly the handgun, resulting in mass carnage on the streets of our cities.

The increase in drug trafficking and the use of automatic and semi-automatic weapons by drug dealers have convinced many police agencies to upgrade their own level of firepower in order to better protect themselves and the community they are trying to serve.

It was reported in the Washington Post newspaper on Friday February 19, 1988 that the police officials in the Washington, D.C. Police Department have called for stricter gun control laws in other states because of a seizure the day before of 13 high-powered weapons, including a 9 mm machine gun, a four-barrel .357 magnum derringer and 10 other fully loaded firearms. (Washington, D.C. has a Street Gun Control Law) The seizure brought to 497 the number of firearms confiscated in the District since the beginning of this year compared with 325 firearms at the same time last year. Assistant Chief Isaac M. Fulwood, Jr., second in command, is quoted to have said in an interview: "We've had more than a 50 percent increase in the seizure of firearms this year," "Couple that with the increase in violence and narcotics trafficking-that's alarming." "It begs for some kind of resolution." Fulwood went on to suggest some kind of

national control of firearms. It should be noted here that the D.C. police is one of those departments that will be going to 9 mm semi-automatic pistols replacing the standard six-shot revolvers.

NOBLE is supporting the seven-day waiting period because, as previously indicated, it will increase law enforcement's ability to keep handguns out of the hands of those prohibited to possess them, in addition to providing a "cooling-off" period for those who, in the heat of the moment, are convinced to use the weapon unlawfully.

Before anyone accuses us of being myopic because of our dedication to resolving the crime problems in our black communities, NOBLE wants everyone to understand that we are just as concerned about crime in all of America and its effects on all our lives. Crime must be attacked wherever it occurs, and we must all support the victims of crime. We all suffer directly or indirectly. The effects manifest themselves in human suffering, property loses, higher retail prices, higher insurance premiums, depressed neighborhoods, and higher unemployment, especially teenage unemployment which is important to this discussion. However, as black law enforcement executives, we feel a special responsibility to be involved in the solutions of black on black crime.

Black-on-black crime is a special problem for all America, and the discussion of this problem is germane to the issue of handguns and the control of the sale and transfer of

such weapons. In no other racial or ethnic group does crime occur so disproportionately, and the problem is exacerbated by the proliferation of illicit drugs and handguns.

Most of us have heard the statistics on the black-on-black murder rate, but we think it is important to repeat them. Black-on-black murder is the leading cause of death in black males, ages 15-44. One black in forty will be murdered. Two-thirds of murders among blacks occur between family and friends, a statistic very germane to this discussion. One-in-three black men who die between the ages of 20-24 are murdered. In 1983, blacks comprised 43 percent of the murder victims in the nation although blacks represented only 11.5 percent of the nation's population. Black males have a one-in-twenty-one chance and white males have a one-in-131 chance of becoming murder victims. Black females have a one-in-104 chance and white females have a one-in-369 chance of being murder victims.

Much of the violent crime being experienced in this nation is a direct result of illicit drugs and the use and abuse of same. Also, we must not overlook the impact of alcohol abuse. An examination of the murders occurring in this nation reveals a definite link between drugs and alcohol abuse and the availability of handguns which are subsequently used to protect a drug dealer's "turf", to commit execution style murders or during a period of heated passion following or during a violent argument. The

influence of illicit drugs and alcohol abuse is a serious problem among families and friends. The combination of drugs and guns often end in senseless murders, a disproportionate number involving black victims and black offenders.

Of the 61 murders occurring in Flint, Michigan in 1986, 85 percent were black victims and 75 percent of the known offenders were black. Forty-three of the victims were black males, twenty-eight between the ages of 20 and 30 years. Sixty percent involved family members, friends, or acquaintances. Alcohol was present in 17 of the murders. Drugs were present in 16, and a combination of alcohol and drugs were present in 21 of the murders. The firearm was the choice of weapon in 62 percent of the cases. Since 1982 the firearm was used 65 percent of the time.

About 70 miles south of Flint, the city of Detroit in 1986 reported a total of 364 teenagers below the age of 17 were wounded by firearms and 43 were fatally wounded. In 1987 the totals were 336 wounded and 35 killed. As of February 22, 1988, the totals are 34 wounded and 6 killed. The great majority of both victims and offenders were black.

If we are to have any success at assuring that the black youth of this nation grow to become productive adults, we must have a total commitment from the entire community, but the black community must take the lead and accept the responsibility for creating the kind of environment where black children have a chance to overcome and avoid the many

pitfalls that have trapped so many of them. The black community must deal head-on with its problems if it is to have positive impact on the futures of its children.

The debate concerning firearms control is not a new one. Twenty-one years ago, The President's Commission on Law Enforcement and Administration of Justice strongly believed that the increasing violence in every section of the nation compelled an effort to control possession and sale of the many kinds of firearms that contribute to the violence. The Commission went on to say that although controls at all levels of government must be strengthened in order to reduce the probability that potential criminal offenders will acquire firearms, the interest of persons desiring such weapons for legitimate purposes must be preserved as much as possible. The Commission stated further that no system of control ... can guarantee that society will be safe from the misuse of firearms, but the Commission [was] convinced that strengthened system [could] make an important contribution to reducing the danger of crime in the United States. (The Challenge of Crime in a Free Society, 1967, pg. 239).

In light of the violent crimes occurring in America today, we at NOBLE believe that the Commission's wisdom 21 years ago is as appropriate today as it was then.

Mr. HUGHES. Mr. Weber, welcome

Mr. WEBER. Thank you very much, Mr. Chairman. The International Brotherhood of Police Officers, an affiliate of the Service Employees International Union and as the representative of over 60,000 police officers nationwide, the IBPO is the largest law enforcement organization in the AFL-CIO. On behalf of our membership, IBPO welcomes this opportunity to express our support for H.R. 975. As a labor organization, our membership can be described as street cops, the men and women charged with enforcing the laws of States, counties and municipalities nationwide.

Our officers are all too frequently witnesses to or the victims of violence involving the use of handguns by criminals and the mentally unstable. Given that statistics establish that handguns are used in approximately 75 percent of all murders of police officers, IBPO enthusiastically supports the concept of a national waiting period.

Indeed, through the efforts of our parent organization, Service Employees International Union, the IBPO sponsored a resolution at the last conference on enforcement of the waiting period concept. As Mr. Bilik indicated in his testimony, that was endorsed and adopted by the AFL-CIO. IBPO would like to take this opportunity to express the sincere thanks to the AFL-CIO leadership and the public employee department for the support and assistance in this record.

Together with the rest of organized labor, and the overwhelming majority of law enforcement, IBPO believes that a national waiting period for the purchase of handguns will significantly reduce the possibility that the handguns may fall into the hands of those, who for a variety of reasons, simply should not have access to such weapons.

Mr. Chairman, I am not going to reiterate the many reasons in support of H.R. 975. Others have more eloquently done that prior to me. I would make clear, however, that on this issue, police labor, management speak with one single unified voice. That was made clear in today's hearing by the fact that Mr. Napper, who testified on behalf of police management, Atlanta, testified in favor of the bill and the IBPO represents the law enforcement officers in the City of Atlanta, and I personally have spoken to their vice-president on this issue, and they feel strongly in favor of a waiting period in the legislation.

As has been established by other witnesses, waiting period legislation enacted below the Federal level has proven effective in reducing unlawful handgun use. In several States where waiting periods are enforced, the positive results have been truly dramatic. In many jurisdictions, substantial numbers of criminals have been caught attempting to purchase handguns from legitimate dealers.

In addition, the IBPO believes that a uniform national waiting period policy will enhance the effectiveness of the various State laws currently in place balanced against the clear benefits of the national waiting period legislation and is the minimal inconvenience a 7-day delay will place on the legitimate handgun purchaser.

The IBPO fully supports the rights of all law-abiding citizens to acquire and use handguns for appropriate purposes. However, this bill, if enacted, would have no significant impact upon the rights of

such law-abiding citizens. The IBPO believes that the 7-day waiting period would be a truly modest price to pay for the protections afforded by H.R. 975.

In conclusion, I would like to state that IBPO supports all reasonable and effective efforts to improve the ability of law enforcement to protect the public safety and reduce the often tragic consequences of unlawful handgun use. We appreciate the support that this subcommittee has given the law enforcement community and your leadership on this issue.

We appreciate this opportunity to express our views and will attempt to answer any questions you might have.

Mr. HUGHES. Well, thank you very much, Mr. Weber.

[The statement of Mr. Weber follows:]

IBPO

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

AFFILIATED WITH SERVICE EMPLOYEES INTERNATIONAL UNION, AFL CIO

1313 "L" STREET, N.W., WASHINGTON, D.C. 20005

202/371-6644

STATEMENT BY

THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, AFL-CIO

BEFORE

THE SUBCOMMITTEE ON CRIME

OF THE

HOUSE JUDICIARY COMMITTEE

ON

HR 975 THE HANDGUN VIOLENCE PREVENTION ACT

February 22, 1988

The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union, and, as the representative of over 60,000 police officers nationwide, is the largest law enforcement organization in the AFL-CIO. On behalf of our membership, the IBPO welcomes this opportunity to express our support for HR 975, The Handgun Violence Protection Act.

Tne IBPO wishes to thank Congressman Feighan for his efforts in introducing HR 975, and to express our gratitude to you, Mr. Chairman, for your leadership on this issue.

As an organization responsible for promoting and protecting the interests of its membership, the IBPO is very concerned with the dangers police officers must face in the day to day performance of their duties. As a labor organization, our membership is made up of "street cops"; those officers charged with enforcing the laws of states, counties and municipalities. Our officers must face the many dangers inherent in their duties on a routine basis. As a result, the IBPO enthusiastically supports the concept of a waiting period

for the purchase of handguns in this country. Indeed, through the efforts of our parent organization, the Service Employees International Union, the IBPO sponsored a resolution at the last AFL-CIO convention recommending endorsement of the waiting period concept. That resolution was endorsed and adopted by the entire AFL-CIO. On behalf of our membership, the IBPO would like to take this opportunity to express its sincere thanks to the leadership of the AFL-CIO, and, in particular, of the Public Employee Department, for their support and assistance in this regard. Together with the rest of organized labor, and the overwhelming majority of the law enforcement community, the IBPO believes that a national waiting period for handgun purchases can be an important and effective weapon in society's efforts to protect both the public and law enforcement personnel from those individuals who would use handguns for improper purposes. As a measure designed to require a seven (7) day waiting period for handgun purchases, HR 975 has the full support of the IBPO.

The straightforward purpose of HR 975 is to reduce the possibility that handguns may fall into the hands of those who,

for a variety of reasons, should not have access to such weapons. Under the provisions of HR 975 convicted felons, fugitives from justice, drug addicts and the mentally incompetent will face a significantly reduced prospect of obtaining a handgun for use in criminal or other violent conduct. By reducing the access of such persons to handguns the IBPO believes that the safety of the general public, and of police officers will be enhanced. Statistics establish that handguns are used in approximately seventy-five (75) percent of all murders of police officers nationwide. No legislation can ever guarantee that a convicted felon, drug addict, or other inappropriate person can be prevented from obtaining a handgun for unlawful uses. However, HR 975 goes a long way in reducing the possibility of such an occurance by providing law enforcement with a limited mechanism to prevent handguns from reaching the wrong hands. Presently, any individual, regardless of past demonstrated history of unlawful or dangerous conduct, may walk into a firearms dealer's store, fill out a few federal forms and walk out with a handgun. While the 1968 Gun Control Act mandates that a handgun purchaser be a resident of the state in which a purchase is

made, he or she need only "certify" their past history in order to obtain a weapon. The present Administration's 1981 Attorney General's Task Force on Violent Crime specifically recommended a waiting period such as that embodied in HR 975. As the Task Force noted, drug addicts, felons, and mental defectives are not the best risk for the "honor" system currently in place.

Under HR 975 handgun purchasers may only take posession of a handgun after seven (7) calendar have elapsed from the time the prospective buyer fills out the application until delivery of the weapon. On the date the application to purchase is filled out the seller is required to send it by certified mail to the chief local law enforcement official in the purchaser's jurisdiction of residence. The local police are then free to run a records check if they so desire; no investigation is mandated by the Bill. State and local jurisdictions may, however, use the federally afforded notice and waiting period to require that a check be run. Unless the local law enforcement official who receives the application notifies the dealer that the purchaser is disqualified, the handgun sale may be completed after the seven (7) day waiting period has ended.

The arguments in favor of the waiting period, like the purpose of the bill itself, are straightforward and persuasive. A Justice Department study found that as many as twenty-one (21) percent of all handgun purchases made by criminals are through legitimate dealers. A waiting period will make it more difficult for criminals, drug addicts and mental incompetents to obtain the firearms with which they may wreak havoc. In addition, the waiting period will reduce the potential for the tragic results arising from crimes of passion committed with handguns. Sadly, we are all familiar with the many instances of violent acts committed during periods of anger, or despair by individuals who have lost control of their behavior. Thus, the waiting period created by the bill is also a "cooling off" period for those persons considering violent acts in the confusion of a heated or desparate moment.

Waiting periods enacted below the federal level have proven effective in reducing unlawful handgun use. In several of the states where waiting periods are in force the positive results have been truly dramatic. In many jurisdictions substantial numbers of criminals have been caught attempting to

purchase handguns from legitimate dealers. In addition, a uniform national waiting period policy will enhance the effectiveness of the various state waiting period laws currently in place.

Balanced against the clear benefits of national waiting period legislation is the minimal impact of the brief delay placed upon the legitimate handgun purchaser. The IBPO fully supports the rights of all law abiding citizens to own and use handguns for legitimate and lawful purposes. HR 975 would have no significant impact on the rights of the overwhelming majority of law abiding handgun owners. The seven (7) day delay proposed in HR 975 is a truly modest price to pay for the increased protections the measure will provide to the public and law enforcement personnel upon its enactment.

The IBPO supports all effective efforts to improve the ability of law enforcement to protect the public safety and reduce the all too often tragic consequences of unlawful handgun use by those who simply should not have access to weapons. HR 975 is a measure that fully deserves the support of all persons and

organizations similarly concerned. On behalf of our membership, the IBPO supports a national waiting period for the purchase of handguns. We appreciate this opportunity to express the views of membership in support of HR 975 and would attempt to address any questions you might have.

Mr. HUGHES. The FOP has about 200,000 members.

Mr. STOKES. Yes, sir. Contrary to some of the opposition to this legislation, we presented that as resolutions 7 and 8 at our national conference in Mobile, Alabama, and after committee discussion and discussion on the floor in pre-mailing that resolution to our membership, they voted overwhelmingly to support the 7-day waiting period.

Mr. HUGHES. Mr. Vaughn, your organization, the International Association of Chiefs of Police, has about 14,500 members; is that correct.

Mr. VAUGHN. Fourteen thousand, six hundred currently, chiefs, superintendents, commissioners and so forth.

Mr. HUGHES. I didn't mean to cut you short. We just picked up 100 recently.

Chief Tapscott, how about the National Organization of Black Law Enforcement Executives, how many members?

Mr. TAPSCOTT. I know we have over 1,700 members. What is important here, is that we represent police executives at both the Federal, State and local levels and in addition to that, many are police chiefs who command some of the largest police departments in this country, and I have overwhelming support from our membership on this position.

Mr. HUGHES. Has each of your organizations put the question to your membership, either in survey form or convention, to see whether or not it enjoys the support of the rank and file?

Mr. VAUGHN. Not only has our association surveyed its entire membership, but at our annual conference in Toronto this past October, this question was put before the resolutions committee which reported it out on to the floor, and it was voted unanimously as a resolution of the association.

Mr. STOKES. Yes, sir, we did. As I said earlier, we took this issue to our delegates at our national conference where over 2,100 were assembled in the auditorium and after the committee report and lengthy discussion about it, they overwhelmingly supported this legislation, and I might add it is a truer response than you might get from this National Association of Chiefs of Police, which we looked at and evaluated also as Jerry's group has and would offer.

You know, if you want a true evaluation of that, we would certainly be able to provide that.

Mr. HUGHES. I gather Mr. Vaughn is inclined to agree with you.

Mr. STOKES. Yes. In support of some of the other statements that were made here today, I ran across these articles where Virginia guns are traded for drugs in New York. Recently on a trip to Florida, I found that not only can you buy Uzis down there, but they will convert them for $50. Coming up here one of my committee members gave me this article where Virginia is offering you a discount on the second Uzi that you buy.

I offer in testimony that the next thing will be Howitzers. I was on a radio show on this very issue and a gentleman spoke out that it was his right to own an atomic bomb if he wanted. I told him he should go to the stands of Gadhafi where he could let it off. It is ludicrous.

Mr. HUGHES. Are you offering that for the record?

Mr. STOKES. Yes, sir.

Mr. HUGHES. It will be so received.

[The information was not submitted.]

Mr. HUGHES. Chief Tapscott and Mr. Weber, both of your organizations have been bold and both have supported waiting periods.

Mr. TAPSCOTT. The way we are structured we discussed this continuously at the local, regional and national levels and it started with my administration, which is about three presidents ago, Dr. Napper, who is the Commissioner of Police in Atlanta, told me as President.

He continued the education of our membership and the president is still doing that. If there is anybody that is cynic, we have not heard it—almost 100 percent. We are strongly supporting this bill as an organization.

Mr. HUGHES. I am going to ask a series of questions in the next couple of minutes. I will recognize my colleague from Kentucky, and then I am going to question individual panelists. Try to keep your answers brief so we can move through a number of different areas, if you would.

I will try to go from one to the other because you are all very seasoned police officials with extensive backgrounds in law enforcement. Only respond if you have something you want to disagree with or add to, if you would. First of all, what do you say to the argument, why pass a waiting period for 7 days if you are not going to provide a fingerprint check? What good is it going to be?

What do you say to that? Mr. Vaughn.

Mr. VAUGHN. Our response very quickly is that the waiting period in this bill provides the opportunity for those police agencies that have not only the desire, but the capability to do that thorough background investigation as compared to what we have now, that is an improvement.

Mr. HUGHES. Is it an advantage to have the name?

Mr. VAUGHN. Absolutely. Absolutely. Let me give you probably the best known example. John Hinckley was arrested in the Nashville Airport trying to smuggle three handguns aboard an airliner. He was fined $66; 2 days later he went to the State of Texas where he was a non-resident and where there was no waiting period, and purchased the weapons that were used to shoot James Brady and Ronald Reagan. A waiting period and background investigation would have revealed that arrest at the Nashville Airport.

Case after case after case, we strongly support it. It may not be the panacea, it may not answer all the problems, but it will help.

Mr. HUGHES. Why would that arrest have been available if it was not a felony conviction or was it?

Mr. VAUGHN. Well, again, depending on the—it is a Federal crime to attempt to smuggle weapons upon aircraft and assuming that it was adjudicated in a way that resulted in the fine, there had to be some reasonable record that could have been located to make that known. But the alternative was nothing, and we have the President of the United States and his top aide, not only shot, but Jim Brady now never will be what he was, nor have the opportunities he would have had.

That is wrong. As a society, we have failed.

Mr. HUGHES. So your answer is that it is of some help even to have a name and address?

Mr. VAUGHN. Absolutely.

Mr. HUGHES. How much of a burden would a waiting period be on the police department, Mr. Stokes?

Mr. STOKES. I can go back to our testimony that we conducted in Cleveland, OH, at a subcommittee hearing held there, and it is the matter of adding one additional person to a large police department such as Columbus, OH, or Cincinnati or Cleveland to merely do a record check by computer and that means taking into NCIC or in our city or State, our statewide system on record checks on those individuals.

Mr. HUGHES. From your experience in a fairly large police organization, certain individuals' names pop up periodically.

Mr. STOKES. Pardon, sir.

Mr. HUGHES. Do certain individuals' names keep popping up on the criminal docket?

Mr. STOKES. Yes, sir. That is a major issue. I am sure those issues will be screened out, as you heard in earlier testimony today. Thirty-five, thirty-six percent screened out, that takes that individual, that gun, that opportunity off the street. If it saves the life, one police officer's life while we are out on patrol on a daily basis or one citizen's life or prevents one suicide, this legislation in 465 is worth every minute we have put into it.

Mr. HUGHES. You know, in the 20 years I worked in the criminal justice system as a prosecutor, in small communities, in particular rural areas, I saw the same names coming up time after time and you get to know the characters after a while. It wasn't unusual to see them back in the criminal justice system in a matter of 5 to 6 months after they were released from prison.

You have certain names pop up that you knew were the town nuts, that had mental problems.

Mr. STOKES. Or arrest records. You are going to have that individual, even in a large city of Columbus or Cleveland or Cincinnati or New York or the District of Columbia. Those names are known to police officers.

Mr. HUGHES. So in small towns and fairly large towns, it is helpful for police officials to know who is applying for a handgun.

Mr. STOKES. Absolutely. Absolutely. Especially when they are buying a weapon that can be converted to an automatic weapon or a handgun that can be used in the crime and as related earlier, 70 to 75 percent of our police officers are shot and killed with handguns or wounded with handguns. So it is a major concern for the FOP.

Mr. HUGHES. I will recognize the gentleman from Kentucky.

Mr. MAZZOLI. Thank you very much. First, I would like to welcome Mr. Stokes, and thank him for his recent trip to Louisville to visit my friend, Ralph Orms. I heard very fine responses to the visits and statements you made and this next month on March 11, Mrs. Brady is coming to Louisville and Ralph and others are working with me on developing a day of meetings and opportunities for her and for Ralph and others to get the word out.

Mr. Stokes, let me ask you and your panelists the question that I started asking a little bit this morning, and that is the nuts and bolts of how you see a program like this to work. I think it is logical, it would seem, that currently the waiting periods are defective

because there is a patchwork quilt of them around the country. You can always go a few miles away and find a jurisdiction where there is no waiting period.

So the waiting period, if it is imposed in a national sense, would overcome most of this border-hopping. At the same time, while it is a logical idea, it would seem to be meritorious, it would seem to be fruitful. We don't want to set up a mechanism which is going to promptly fall on its face because it is overburdened with paperwork because the system isn't in place, because we don't have the people.

They can't be deployed from within the organization. Could I ask each of you to venture with me just in a fairly brief way, how you see a program like this being organized and whether you think that in most jurisdictions it can be done correctly, because, as my chairman has said, there are many small towns in the country where everybody knows everybody else and to put them through a kind of paperwork rigmarole may not be necessary and it might be a redundancy. On the other hand, it may be necessary, but let me ask the question, how do you see the program working and can it be set up correctly.

Mr. Vaughn, we will start with you.

Mr. VAUGHN. I think particularly given the advances that have been made and are in place in many police agencies with respect to automation, it is becoming easier and easier to facilitate such a system in a way that is fast, efficient and doesn't really provide a drain on police resources.

If the types of positive identification required are specified and with the ability of the vast majority of all police agencies to access their State crime information system and the national crime information system, this system should not or this process should not be a burden on most police agencies given the relatively small number of applications that would be made in any particular jurisdiction given the range of activity they are involved in.

I don't see it as burdensome. I don't see it as particularly difficult to facilitate.

Mr. MAZZOLI. Mr. Stokes.

Mr. STOKES. Someone said earlier this morning about overburden on a police department. I don't know how many man hours—it can go from 30 man hours to 30,000 man hours to investigate a brutal homicide, or a mass homicide. We have tied up years in those. So when you weigh the time that it takes to do the record check versus the time to actually consummate a completed investigation, I think they will balance out, and in the course—I think a spinoff of this legislation is the ability to perhaps trace a firearm, because as a prosecutor, you know that is the first thing the defense says, "How can you put that firearm in my client's hands or within the realm of possibility? How did he get it."

I think that is a spinoff of this legislation that we have really not talked about. We in law enforcement think about those.

Mr. MAZZOLI. Mr. Spurlock.

Mr. SPURLOCK. Every police department has the capability to run a tag and receive information, whether it be through the National Crime Information Center or statewide or whatever. They have the ability already to probably handle all the demand on them. You have to remember that this legislation does not call for every

person applying for a handgun to run a background check. It doesn't.

The chief law enforcement person would run whomever he wants to. It is not mandatory that everyone be run. So you really don't have to do that. Now, the question came up about prints. The biggest category of fines of people who should not possess a handgun comes from criminal records. Probably the second biggest is a fake address. Now, the computers are fixed so that you can verify some of those things.

Two of the biggest categories where offenders are in, repeat offenders basically, something almost every jurisdiction has, and if you look at the number of jurisdictions that require some sort of registration forms, even long guns—I am not talking about you just have to register them. In case they are stolen you will have a record of it, if for no other reason.

You will find they already have people dealing with handguns and dealing with long guns, rifles and shotguns. So it really doesn't cost a lot. It probably—I know my department, it would not cause us any problem at all.

Mr. MAZZOLI. Would it fit into what you have? Mr. Tapscott.

Mr. TAPSCOTT. There is not a lot I can add other than to concur with what has been stated, except to say to you while I was in Flint, MI, it seems as though I processed 2 to 3 gun permits per week, and it was not a burden on that police department. It was not a large police department. It was no burden at all.

Mr. MAZZOLI. Mr. Weber.

Mr. WEBER. Our membership would be in the same position as various police departments that probably carry out some of the procedures and processes involved in a background check. I assure you those officers would not consider it a burden.

Mr. MAZZOLI. Could I start with you and ask the last question I have, Mr. Chairman.

If the bill were in its exact form today when it became the law of the land, and that would be a 7-day waiting period and only the information called for in this bill's draft would be what is called for in the law, would you say that still would help you in your task of trying to keep the wrong people from getting handguns?

Mr. WEBER. Based upon the input from our membership across the country, we feel strongly H.R. 975 would significantly reduce the possibility of handguns reaching the wrong hands.

Mr. MAZZOLI. Exactly the same information, no fingerprints, none of this other exotic stuff, simply your name, rank and serial number, so to speak, would that give you some help?

Mr. TAPSCOTT. Yes, I would say it would give us some help. It has been my experience at some point or another that person has, in fact, given his proper name to the police.

Mr. MAZZOLI. Thank you. Mr. Spurlock.

Mr. SPURLOCK. Absolutely. As I said, and you heard testimony here today, the first biggest group is those with criminal records. The second group, and I know this as a fact, is the address, and we have that capability. Even without fingerprints, this would be a great help. It is part of an anti-violence program, it is not going to answer everything.

Mr. MAZZOLI. I understand.

Mr. STOKES. I think the combination of the name, date of birth and social security number, you are going to weed out most of those people.

Mr. MAZZOLI. Mr. Vaughn.

Mr. VAUGHN. It will certainly help us, and, Lord knows, we need some help right now.

Mr. MAZZOLI. Mr. Chairman, thank you.

Mr. HUGHES. I just have a couple of questions.

Inspector Spurlock, the first category where you pick up a false application is criminal records. Second is false address. Where do fictitious names come in?

Mr. SPURLOCK. There is no such thing as a fictitious name file, there is a "known as", "also known as", "AKA", and so forth. Probably your first clue, it would kick out. If you chose a name that had a criminal record by mistake, you probably would try to find one that didn't. Then the second thing that would kick out would be the address. We have that address listed already for Mr. and Mrs. John Jones, and it shows they were born in 1901, you are 24 years old and your name is "Smith". That would allow you to check further.

Each one of these would give you more to go on. If you were dealing with nothing, if you had no suspicions of any kind, you had no knowledge this person may or may not be, but you don't know him to be a good citizen, and you are going to check on that.

Mr. HUGHES. What percentage of the cases in your experience in law enforcement do you see an applicant for a handgun giving his correct name even when he has a criminal record? Is it a high percentage, low percentage?

Mr. SPURLOCK. It is about 21, 25 percent of the time.

Mr. HUGHES. They give the correct name.

Mr. SPURLOCK. They give it.

Mr. HUGHES. About what percentage of those caught with handguns have purchased those handguns through legitimate sources?

Mr. SPURLOCK. You are asking the wrong person, Mr. Chairman. You can't mean a handgun in the District of Columbia legitimately. That is one area I cannot answer.

Mr. HUGHES. Mr. Stokes.

Mr. STOKES. I think the myth that surrounds where criminals get guns is about to come to an end. Not all criminals only steal their guns, many criminals buy their guns from unscrupulous gun dealers, we have over 225,000 gun dealers in the United States, many of which have mom and pop grocery stores, and many of them sell guns to criminals, and there is a wide variety of ways that criminals get guns over and above the nearly 300,000 a year that are stolen from their legitimate owners who fail to take adequate steps to secure them.

Mr. HUGHES. I know that. Mr. Vaughn, you addressed the question of liability. Any of your organizations have any concerns about liability, that is disclosure of information or liability for failure to comply with a 7-day waiting period in any fashion?

Mr. VAUGHN. I think the issue, as it was raised in Mr. Ehrenberg's survey, was largely considered ludicrous by the members of our association who have addressed this. I suppose in this sue-happy society in which we exist today that anybody could sue you

for anything, but reasonable people who do reasonable things and take reasonable actions to prevent further violence wouldn't be subject to unreasonable liability, and our position is no, this absolutely does not expose us to an unreasonable liability at all.

Mr. HUGHES. The law enforcement community also, if I understand the community correctly, wants to attempt to identify those individual applicants who have a mental history as being another class of individuals who obviously are disqualified. One of the arguments that is made is in many instances agencies do not have access to those medical records, they are privileged records.

What would you say to requiring a waiver, when you make an application, of your right to privacy for those records?

Mr. VAUGHN. Well, that really does represent a very significant problem to law enforcement, and that is one that is very touchy in terms of balancing rights, I believe, particularly in the case of the purchase of a handgun, something that can be as lethal and have such lethal consequences, that a waiver would be reasonable in order to secure the purchase or to facilitate the purchase of a handgun. Obviously, it is a difficult area and one that even with this bill we will continue to have some problem with.

Mr. HUGHES. Any panelist disagree with that?

Mr. SPURLOCK. I agree fully, Mr. Congressman.

Mr. HUGHES. The gentleman from Ohio.

Mr. FEIGHAN. Thank you, Mr. Chairman. I have no questions. I apologize for not getting back sooner. I had a large delegation from my district visiting Washington.

I simply want to say to the members of the law enforcement community here how thankful I am for their testimony today, but particularly over a long period of time—about a year-and-a-half now—for providing us testimony at hearings both here in Washington, and in Cleveland, where we had the leadership of virtually all of the law enforcement organizations in the country. I also know that they testified when we held hearings in New York, San Francisco and Miami over the past year-and-a-half to 2 years. We are very grateful. They have put into the record the kind of testimony that we have been looking for in understanding what the impact of waiting periods has been in other jurisdictions—State or local jurisdictions—and what we could expect to be the benefits and some of the difficulties of applying them nationally.

Thank you again.

Mr. HUGHES. Thank you. We appreciate your testimony. I hope we haven't delayed you too long. As always, you have been very helpful to us.

Our fourth panel today consists of James J. Baker, Director of Governmental Affairs, National Rifle Association of America; Neal Knox, Executive Director, The Firearms Coalition; John Snyder, Director of Publications and Public Affairs, Citizens Committee for the Right to Keep and Bear Arms; and Lawrence D. Pratt, Executive Director, Gun Owners of America.

All of the members of our panel are long-time advocates of the individual rights view of the 2nd Amendment and dedicated organizers of opposition to any and all gun control legislation.

Gentlemen, it is good to see you. We have your statements which will be made part of the record in full, and we hope you can sum-

marize for us so that we can get right to the questions. Why don't we begin, first of all, with you, Mr. Baker.

TESTIMONY OF JAMES J. BAKER, DIRECTOR OF GOVERNMENTAL AFFAIRS, NATIONAL RIFLE ASSOCIATION OF AMERICA; NEAL KNOX, EXECUTIVE DIRECTOR, THE FIREARMS COALITION; JOHN SNYDER, DIRECTOR OF PUBLICATIONS AND PUBLIC AFFAIRS, CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS; AND LAWRENCE D. PRATT, EXECUTIVE DIRECTOR, GUN OWNERS OF AMERICA

Mr. BAKER. Thank you, Mr. Chairman. I have a longer statement I would like included in the record.

Before proceeding to a discussion of the substantive issues surrounding our opposition to H.R. 975, The National Rifle Association would like to lay to rest one of the currently accepted myths used to argue in favor of a national waiting period and background check before purchase of a pistol or revolver. I regret that we must spend so much time belaboring this point; it is equally unfortunate that advocates of "gun control" continue to misrepresent the facts concerning the tragic assassination attempt on President Ronald Reagan and other officials.

In much of the material produced in support of H.R. 975, the allegation is made that if such a waiting period/background check system had been in place, "John Hinckley would have been caught" because "he lied on a Federal form" when he purchased the revolver used in his attack on President Reagan. This allegation is false.

John Hinckley purchased a total of eight firearms—two .38 caliber and four .22 caliber revolvers, as well as two rifles—from August, 1979 to January, 1981. The .22 caliber revolver used in his assault on President Reagan was one of two he purchased in 1980, more than 6 months before he left for Washington, DC. Federal law was so diligently complied with in this case by the seller that multiple purchase forms were quickly filed with the regional office of ATF after the purchase.

Indeed, this purchase, and all previous purchases, were legal under all applicable law. And they would have been legal under H.R. 975 or any other "waiting period" proposal. At the time of his purchase and up until his attack on the President, John Hinckley had no felony record, he had no recorded history of mental illness or commitment, and no check currently involves police inspection of private conversations with a psychiatrist, and he was using a valid Texas driver's license issued May 23, 1979, to make his firearms purchases. The contention that a background check would have somehow "uncovered" the fact that he did not physically reside at the address listed on his license is a willful distortion of the criminal record check made by police. To the contrary, had a check been run and all criminal records been thorough and completely available, they would have confirmed that Hinckley was not a "prohibited person" and that his last known address was in Lubbock, Texas.

Simply put, no detection system ever proposed or ever devised has mind-reading capabilities, Mr. Chairman. Just last year Virgin-

ia and Florida enacted sweeping preemption laws. In Florida passage of the preemption bill neutralized and got rid of several waiting periods in Florida. This bill immediately voided dozens of waiting periods and background checks. Ironically, some of the repealed waiting periods with background checks were found in areas often cited for their "effective" gun laws. Apparently the citizens of those communities did not agree with others' assessment of the efficacy of waiting period laws.

In addition to the rejection of waiting periods through statewide preemption laws, the States and voters in scores of communities have explicitly rejected those schemes when given the opportunity to vote.

In the last decade State Legislatures in Ohio, Colorado, South Carolina, Florida, Louisiana, and Oklahoma, have all either failed to consider or voted down waiting period proposals in their State Legislatures. The State of Arkansas first passed and then repealed a waiting period law. In Representative Feighan's own State of Ohio, Mr. Chairman, waiting periods have died in the 114th, 115th and 116th General Assemblies, as well as a recent session of the Maryland General Assembly.

H.R. 975 does not mandate that the chief law enforcement officer conduct a check of a potential hand gun transferee's criminal record. A review of the procedures used to conduct a criminal history check demonstrates, however, that, as a practical matter, the criminal history check contemplated by H.R. 975 is a time-consuming exercise in futility which will not achieve its purported goal but may very well deprive peaceful and honest citizens of their right to acquire firearms.

The wording of the legislation and its aims cry out for sober examination by those familiar with the NCIC system, the system that would have to be utilized to accomplish background checks.

The only type of check which will be available to the chief law enforcement officer, the person to whom H.R. 975 assigns this function, will be a criminal records "name check" as H.R. 975 does not mandate fingerprints, which are in fact the only form of positive identification for checking criminal histories. With only a "name check" being conducted, all that can be determined is whether a person with that name has a criminal history. But as Assistant Attorney General John R. Bolton noted in a letter to the Judiciary Committee chairman: "Those persons with a criminal record who are prohibited from purchasing a handgun are the ones most likely to obtain false identification documents." Thus, the "name check" is not likely to detect those who are ineligible to acquire firearms.

The utility of the criminal record check is not, however, limited only by the fact that a "name check" is undertaken. Even if a true name was used and even if there was only one person by that name, the records are automated only for records of persons born in or after 1956; records of persons born before 1956 would have to be obtained by providing a written request, accompanied by fingerprints, to the FBI's Identification Division with a 2- to 3-week wait. The subcommittee should take account also of the flaws in the underlying records, upon the accuracy and completeness of which rests on the whole premise of H.R. 975. I quote from the testimony by the ACLU's Chief Legislative Counsel in which he said: "Based

on the results of record quality research conducted by OTA and others, the quality of criminal history records at the State Level has improved; however, significant problems remain, especially with respect to court disposition reporting. The average nationwide disposition reporting level increased from 52 percent in 1970 to 65 percent in 1979, but has changed little since then."

The NRA believes very strongly in the presumption of innocence; thus, we believe that a criminal charge which has not resulted in a conviction does not make a potential handgun transferee ineligible to receive or possess a handgun. Yet the absence of complete and accurate criminal history information, particularly disposition information, will undoubtedly result in the disapproval of handgun transfers to eligible transferees as a result of inaccurately recorded dispositions. Until the system of records is made accurate, complete, reliable and timely, no consideration should be given to legislation which rests upon such records.

The current proposal also elicits objection on the grounds of federalism, local and State control of law enforcement resources and States' rights.

Mr. HUGHES. Could you sum up?

Mr. BAKER. Yes, sir.

As Senator McClure pointed out in 1985: "The main rationale for this amendment is the supposed opportunity for a background check. This is ridiculous since the amendment only provides such an opportunity to States, which do not want the opportunity, and to their citizens who have voted it down."

In closing, Mr. Chairman, and other members of the subcommittee, we feel that while not all criminals avoid legitimate firearms channels for purchases, a great majority of them do. They are going to avoid the system as they do by definition as they are criminals, and in large part this is going to affect only law-abiding citizens, and given the adequacy and efficacy of the criminal records system as it exists now, it is not a good idea.

Mr. HUGHES. Thank you.

[The statement of Mr. Baker follows:]

TESTIMONY OF JAMES JAY BAKER
DIRECTOR
FEDERAL AFFAIRS

NATIONAL RIFLE ASSOCIATION
INSTITUTE FOR LEGISLATIVE ACTION

ON
H.R. 975
"THE HANDGUN VIOLENCE PREVENTION ACT OF 1987"

BEFORE THE
SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1988

WAITING PERIOD TESTIMONY OF JAMES J. BAKER, DIRECTOR, FEDERAL AFFAIRS, NATIONAL RIFLE ASSOCIATION INSTITUTE FOR LEGISLATIVE ACTION

Before proceeding to a discussion of the substantive issues surrounding H.R. 975, The National Rifle Association Institute for Legislative Action would like to lay to rest one of the lynchpin myths used to argue in favor of a national waiting period and background check before purchase of a pistol or revolver. It is unfortunate that we must spend so much time belaboring this point; it is equally unfortunate that advocates of "gun control" continue to misrepresent the facts concerning the tragic assassination attempt on President Ronald Reagan.

In much of the propaganda produced in support of H.R. 975, the allegation is made that, if such a waiting period/background check system had been in place, "John Hinckley would have been caught" because "he lied on a federal form" when he purchased the revolver used in his attack on President Reagan. It is further claimed that Hinckley "would have been in jail, instead of on his way to Washington, D.C." had such a background check been conducted. These allegations are irrefutably false. Their continued use merely points up the fact that HCI and sponsors of the legislation before this Committee have only emotional rhetoric to justify the wholesale abrogation of constitutional rights (under the 2nd and 5th Amendments) represented by H.R. 975.

John Hinckley purchased a total of eight firearms — two .38 cal. and four .22 cal. revolvers, as well as two rifles — from August 1979 to January 1981. The .22 cal. revolver used in his assault on President Reagan was one of two he purchased in October 1980, more than six months before he left for Washington, D.C. Federal law was so diligently complied with in this case by the seller that multiple purchase forms were quickly filed with the regional office of ATF after the purchase.

Indeed, this purchase, and all previous purchases, were legal. And they would have been legal under this or any other "waiting period" scheme ever devised. At the time of his purchase, and up until his attack on the President, John Hinckley had no felony

record, he had no recorded history of mental illness or commitment, (as no check currently involves police inspection of private conversations with a psychiatrist) and he was using a valid Texas driver's license issued May 23, 1979, to make his firearms purchases. The contention that a background check would have "uncovered" the fact that he did not physically reside at the address listed on his license is a willful distortion of the criminal record check made by local police. To the contrary, had a check been run and all criminal records been thorough and completely available, they would have confirmed that Hinckley was not a prohibited person and that his last known address was in Lubbock, Texas.

Simply put, no detection system ever proposed or ever devised has mindreading capabilities. Advocates of the background check do a gross disservice to the nation by asserting that the tragic assassination attempt on President Reagan would have been prevented by the imposition of any regulatory "gun control" scheme. I urge this Committee to look carefully at other arguments made by those who would make that claim using the case of John Hinckley as evidence.

The long history of waiting period schemes points up the failure of those systems in other criminal justice areas, as well. Waiting periods, permit-to-purchase laws, and police background checks have been instituted around the country for most of the century. After the 1911 Sullivan law in New York, many were enacted in the 1920's and 1930's, about the same time that a Uniform Crime Reporting system was implemented to facilitate the collection of crime data from cities and states throughout the nation. Thus, criminologists and other scholars have had ample time and abundant evidence with which to prove just how effective a waiting period is in deterring violent crime.

In October 1975, Douglas R. Murray of the University of Wisconsin published "Handguns, Gun Control Laws and Firearms Violence." Using the standard statistical methods -- a multiple regression statistical framework -- he compared the various state firearms laws -- including purchase permit, waiting period, police notification, retail

license, minimum age, permit to carry openly, and permit to carry concealed -- to crime rates, while considering socio-economic conditions. Murray found that "gun control laws have no significant effect on rates of violence beyond what can be attributed to background social conditions." Secondly, he found that such laws do not effectively limit access to guns by the violence-prone; and, finally, accessibility to handguns "seems to have no effect on rates of violent crime and firearms accidents, another reason why gun control laws are ineffective."

Murray summarized: "On the basis of these data, the conclusion is, inevitably, that gun control laws have no individual or collective effect in reducing the rates of violent crime."

Murray's study was replicated by a self-proclaimed "gun control" advocate, Professor Matthew DeZee at Florida State University. His conclusion? "The results indicate that not a single gun control law, and not all the gun control laws added together, had a significant impact . . . in determining gun violence. It appears, then, that present legislation created to reduce the level of violence in society falls far short of its goals. . . Gun laws do not appear to affect gun crimes." Keep in mind that the types of laws studied by these scholars were identical to the legislation before you today.

Another unimpeachable study was conducted by two professors at the California State University at Long Beach. Professors Joseph Maggaddino and Marshall Medoff studied "waiting periods" and "cooling-off" periods and found them to be totally useless in curbing crime. They found no relationship between a waiting period or cooling-off period and any type of violent crime, except that they noted a slightly higher homicide rate and a slightly higher robbery rate in places with such laws.

Currently, there are sixteen states with application and waiting periods required for the purchase of a pistol or revolver. Additionally, there are scores of cities and counties that have their own restrictive systems of this type. There are also six states that do not technically have an application and waiting period system, but do have a

licensing system or require a permit to purchase firearms. Again, the majority of these systems have been in place for decades, giving criminologists such as Murray, DeZee, Maggaddino and Medoff ample opportunity to unearth any supposed efficacy these systems have. Likewise, there has existed more than sufficient data for evaluation by those who are represented by HCI. We find that, despite a great deal of sympathy, albeit short-lived, in the academic community for the idea of restrictive waiting periods, anti-gun scholars have failed to discern any benefits of the waiting period concept. A few, notably Massachusetts Professor James D. Wright, have been honest enough to change their position on this issue after their research revealed the facts.

In keeping with this criminological evaluation, which actually served to confirm common sense, the trend in this nation has been towards rolling back or repealing existing waiting periods at the state and local level. Virtually no state or locality has recently opted to add a waiting period scheme to their firearms regulations, nor even to increase the length of the wait. In fact, voters in many states and cities have chosen to defeat attempts at imposing or lengthening existing waiting periods. The story at the state level in the recent past is of pro-gun initiatives, such as preemption and constitutional right to keep and bear arms amendments, passing overwhelmingly in reflection of the public's support of lawful, private firearms ownership. While waiting period proponents may quote as many simplistic polls as they choose, it is these votes of duly elected state legislators or of individual citizens in referenda, that should be viewed as the true gauge of public opinion. Clearly, public opinion reflected at the ballot box is running strong and hard <u>against</u> waiting periods and police background checks.

Preemption represents an implicit rejection of waiting periods and a justifiable claim for supremacy of the state legislative process in setting firearms regulatory law. Currently, 33 states have preempted the field in firearms legislation, claiming for the state legislature the sole responsibility over the regulation of firearms. Fully twenty-five of those state legislatures have passed preemption in the last five years, a clear

indication of the mood at the state level.

Just last year, Virginia and Florida enacted sweeping preemption laws. In Florida, passage of the bill was achieved with significant law enforcement backing and in opposition to the national policy of the IACP, which attempted to browbeat their state affiliate into accepting their view of "gun control." The Florida law enforcement community refused to engage in the politics of their national office, and strongly supported the preemption bill that eventually passed. This bill immediately voided dozens of waiting periods and police background checks throughout the state. Some of the measures rejected were similar to the legislation before this Committee. Ironically, some of the repealed waiting periods with background checks were found in areas often cited by HCI for their allegedly "effective" gun laws. Apparently the citizens of those communities did not agree with HCI's assessment of their law. Willis Booth, a former chief of police with 40 years of law enforcement experience and lobbyist for the Florida Police Chiefs Association succinctly expressed Florida law enforcement's assessment of waiting periods and background checks: "I think any working policeman will tell you that the crooks already have guns. If a criminal fills out an application and sends his application . . . he's the biggest, dumbest crook I've ever seen."

In addition to the rejection of waiting periods through preemption, the states and voters in scores of communities have explicitly rejected those schemes when given the opportunity to vote.

In the last decade, state legislatures in Colorado, Florida, Louisiana, and Oklahoma have been graveyards for misguided waiting period legislation. The state of Arkansas first passed, and then repealed, a waiting period law. In Rep. Feighan's own state of Ohio, Mr. Chairman, waiting periods have died in the 114th, 115th, and 116th General Assemblies, as well as a recent session of the Maryland General Assembly. The state legislature of South Carolina killed a waiting period bill on the floor of the House in an overwhelming vote.

The most recent action on a waiting period in Congress was rejection by the U.S. Senate in debate on the McClure-Volkmer legislation, S.49. At that time an amendment was offered that was similar to the current legislation, except that the time of the wait was to be 14 days. Senator McClure rose in opposition to that amendment and this is part of what he said:

> Under this amendment, purchasers of handguns would be required to wait 14 days between purchase and delivery, which supposedly would allow local police authorities to check criminal and mental records in the hope of screening out prohibited buyers.
> The main argument is the States will have an opportunity — and I stress opportunity -- to do a background check if they so desire. It does not provide for such a check. It merely is alleged to give the States the opportunity. The argument is completely specious. If a State, in fact, desires to have a background check, it can do so now simply be enacting such a waiting period and check as a matter of State law. The only areas which do not have such State waiting periods are obviously States which do not want the opportunity. Thus, the amendment serves absolutely no purpose."

Senator Dole explained his opposition to a nationally-mandated waiting period: "State and local authorities are in the best position to know whether a waiting period would be effective in deterring crime, and thus, I believe the decision should be left to them."

Several other Senators spoke out against a waiting period, and the amendment was defeated by a three-to-one margin. Waiting period legislation went down in defeat in the 99th Congress, just as it has died in virtually every Congress in the last few decades. And deservedly so.

Advocates of H.R. 975 will point out that this is a different bill, even if merely marginally different.

While H.R. 975 does not mandate that the chief law enforcement officer conduct a check of a potential handgun transferee's criminal record as a precondition to the lawful transfer of a handgun, the purpose of the bill is plainly to encourage such a check. A review of the procedures used to conduct a criminal history check demonstrates, however, that, as a practical matter, the criminal history check contemplated by H.R. 975 is a time-consuming exercise in futility which will not achieve its purported goal but

will deprive peaceful and honest Americans of their right to acquire firearms of their choice at the time they choose to acquire them.

Before I discuss the details of the criminal history check procedures, I would emphasize the fact that H.R. 975 does not mandate a criminal history check. The reason for this is certainly two-fold.

First, as a matter of constitutional law, Congress is not empowered by any clause of the Constitution to impose duties on state and local officials. As the Supreme Court has explained

> the federal government, under the constitution, has no power to impose on a State officer, as such, any duty whatever, and compel him to perform it; for if it possessed this power, it might overload the officer with duties which would fill up all his time, and disable him from performing his obligations to the State, and might impose on him duties of a character incompatible with the rank and dignity to which he was elevated by the State. Kentucky v. Dennison, 24 How. 66, 107-8 (1861).

This limitation on congressional power is particularly acute in the area of law enforcement since enforcement of the criminal laws is one of the core functions of a state government. Thus, for the federal government to impose duties on local law enforcement officers would be a most serious intrusion upon the ability of the states to utilize their already limited law enforcement resources.

The second reason for the absence of a mandatory criminal records check by local law enforcement agencies is that those who support the concept embodied in H.R. 975 wish to have law enforcement support for the bill. Yet, a federal law which imposed duties on state and local law enforcement plainly might not be supported by state and local law enforcement; indeed, it might be actively opposed by them. Thus, the result is a bill which, by its express terms, "shall [not] be interpreted to require any action by a chief law enforcement officer which is not otherwise required." This places those in the law enforcement community who are supportive of any effort to prevent private acquisition and possession of firearms in a position where they can support legislation which appears to involve them in the acquisition process but which, in reality, allows

them to do nothing.

The wording of the legislation and its aims cry out for sober examination by those familiar with the NCIC system, the system that would have to be utilized to accomplish any background check. I will briefly review the functioning of the Interstate Identification Index (III or "Triple I") of the FBI's National Crime Information Center (NCIC).

The III, as it name reflects, is merely an index; it is not a repository of records. Thus, if it is queried, usually by using a name and birthdate, it merely refers the questioner to the location of records on a particular person. There are currently 20 states participating in the III, which means that, if the III indicates that a criminal record is located in that state, inquiry must be made to that state's record repository. Records from the other 30 states are retained by the FBI.

In addition, the current procedures of the NCIC limit access to the III to "criminal justice purpose" inquiries. Although the licensing of firearms is, as of this year, considered a "criminal justice purpose," federal regulations limit access to the III for licensing of firearms to those law enforcement agencies which are authorized by a state statute approved by the U.S. Attorney General. Thus, except in those states which already have statutes authorizing a criminal records check before a person may acquire a handgun, H.R. 975 is nothing more than an empty gesture.

Finally, the only type of check which will be available to the chief law enforcement officer, the person to whom H.R. 975 assigns the criminal history check function, will be a criminal records "name check" as H.R. 975 does not mandate that a potential handgun transferee provide fingerprints, the only form of positive identification for checking criminal histories. With only a "name check" being conducted, all that can be determined is whether a person with that name has a criminal history. But, as Assistant Attorney General John R. Bolton noted in a letter of March 19, 1986 to the House Judiciary Committee Chairman (a copy of which is attached to my testimony):

> Those persons with a criminal record who are prohibited from purchasing a handgun are the ones most likely to obtain false identification documents to support a new name.

Thus, the "name check" is not likely to detect those who are ineligible to acquire firearms.

Moreover, as Mr. Bolton further noted, "Even if the purchaser uses his true name, it may not be possible to determine with certainty whether or not a criminal record belongs to the purchaser or another person with the same name. There are many people with identical names and similar identifiers who have criminal records." As noted above, that certainty can only be assured with a fingerprint check.

The utility of the criminal record check is not, however, limited only by the fact that only a "name check" is undertaken. Even if a true name was used and even if there was only one person by that name, the records of the III are automated only for records of persons born in or after 1956; records of persons born before 1956 would have to be obtained by providing a written request, accompanied by fingerprints, to the FBI's Identification Division. To process those requests takes, at a minimum, 2 to 3 weeks. Thus, even if fingerprints were provided with a transferee's sworn statement — which is not called for by H.R. 975 — since the majority of handgun transferees, particularly from licensed dealers, will, for many years, be persons born before 1956 — federal law prohibits the transfer of handguns by licensees to those under 21 years of age -- the criminal records check would not be possible within 7 days.

Added to the inability of chief law enforcement officers to use the automated III for many handgun transfers is the fact that the 20 states which have their own record repositories which are directly accessible to other states may not authorize access to their criminal history records by other states for firearms licensing purposes. Similarly, the remaining 30 states could forbid dissemination to chief law enforcement officers of other states for firearms licensing purposes of the criminal history records provided to the FBI. Indeed, it may take express statutory authorization, on a state-by-state basis,

for the chief law enforcement officers of one state to use the criminal history records of another state.

The preceding litany of difficulties in utilizing the III does not end with the limitations of its current procedures as those procedures would apply to H.R. 975. Instead, the Committee should take account also of the flaws in the underlying records, upon the accuracy and completeness of which rests on the whole premise of H.R. 975. I would, therefore, like to quote from the testimony of Jerry Berman, ACLU's Chief Legislative Counsel, given July 16, 1986 before the Subcommittee on Civil and Constitutional Rights, House Judiciary Committee.

"In 1982 the Congressional Office of Technology Assessment conducted and published 'An Assessment of Alternatives for a National Computerized Criminal History System' which concluded with respect to arrest records:

> Since 1970, Congress has expressed its concern about the completeness and accuracy of criminal history records. Based on the results of record quality research conducted by OTA and others, the quality of criminal history records at the State Level has improved; however, significant problems remain, especially with respect to court disposition reporting. The average nationwide disposition reporting level increased from 52 percent in 1970 to 65 percent in 1979, but has changed little since then (to 66 percent in 1982). Fourteen of 41 States in 1979 and 13 of 47 States in 1982 indicated that disposition reporting to the State repositories was less than 50 percent. In both 1979 and 1982, eight States indicated a reporting level of less than 25 percent. . . . 30 of 49 have automated or manual procedures for the regular review of court disposition reporting and only 13 of 49 States have conducted a record quality audit. (OTA, p. x)

Although the FBI took issue with some of OTA's findings and conclusions, recent data essentially confirms OTA's findings and indicates that little has changed since OTA recommended the need for systemic reform. On July 1, the OTA published a report on 'Electronic Record Systems and Individual Privacy' that included an appendix updating its 1982 report on the NCIC. This report states that although several actions have been initiated at the federal level to improve the accuracy of criminal records, that a variety of new audits and surveys 'suggest significant, continuing record quality problems.'

A 1984 audit of Illinois criminal history records, for example, found that 20 percent

of the records had erroneous information and 50 percent were 'missing dispositions, a majority of which were available in local police records.'

The recent OTA report also cites a national survey conducted by Search Group, Inc., which found that many states had no information on the number of their records including disposition information. But of those that had information, the number of records with disposition information was estimated to be about 50 percent."

The NRA believes very strongly in the presumption of innocence; thus, we believe that a criminal charge which has not resulted in a conviction does not make a potential handgun transferee ineligible to receive or possess a handgun. Yet the absence of complete and accurate criminal history information, particularly disposition information, will undoubtedly result in the disapproval of handgun transfers to eligible transferees as a result of inaccurately recorded dispositions. Moreover, in the hands of a chief law enforcement officer looking for any excuse to prevent a handgun transfer or who believed that an arrest was sufficient evidence of guilt or who felt that an arrest must have led to a conviction for the same offense, inaccurate and incomplete records would provide a justification for disapproving a transfer. Until the system of records is made accurate, complete, reliable, and timely, no consideration should be given to legislation which rests upon such records since to do so flaunts the presumption of innocence.

Finally, we are concerned with the cost of implementing H.R. 975.

In the first quarter of 1986, the III received almost 642,000 inquiries a month, a rate of 7.7. million inquiries a year. As there may be in excess of 6 million handgun transfers a year, it is clear that the burden on the III will be substantially increased. Not only will this probably necessitate additional expense by the FBI and the states — many of which have expressly rejected background checks and will certainly balk at paying for a program they opposed — it will certainly impede the use of the III by those in the criminal justice system dealing with violent crime, possibly putting at risk not only rank and file law enforcement officers, but members of the public.

In addition to these objections, there are significant problems with some other provisions of the bill. There has been some concern that this measure would amount to de facto registration, as do all other waiting period schemes. The bill's backers have suggested that it would not because unless the sale is denied, law enforcement is required to destroy all records. But does BATF need to add local law enforcement offices to its inspection rounds? This is a significant question that must be explored.

The legislation raises 5th Amendment concerns as well, since the transferor is required to submit a "sworn" statement by the transferee to the local law enforcement chief. This statement includes "a statement that Federal law does not prohibit the receipt of the handgun by the transferee." Essentially, this requirement compels the transferor to evaluate the legal qualifications of the transferee or risk prosecution.

These issues merely compound the objections to waiting periods. Purely and simply, waiting periods begin the step-by-step process where the Second Amendment right to keep and bear arms becomes a privilege. Under the waiting period procedures, prospective gun owners are presumed to be guilty of crime until a police check into their background proves their innocence. Such a presumption is repugnant to Anglo-American jurisprudence.

H.R. 975 and all waiting periods redirect police from crime fighting to the unrewarding task of snooping into the private lives of law-abiding citizens. Background checks invite serious violations of the right to privacy. Indeed, since most persons who seek psychiatric assistance are not legally institutionalized (like John Hinckley in 1980), a thorough background check would require the opening of hitherto private medical records to police.

These arguments are all valid on both the state and federal level. The current proposal elicits further objection on the grounds of federalism, local and state control of law enforcement resources, and states' rights. As Senator McClure pointed out in 1985:

"I think the real rationale (behind a nationally-mandated waiting period proposal) is something more, simply to serve as an inconvenience to those of our States — the majority incidentally — which do not want such waiting periods. There is no basis to pretend that all the States in fact have the same problems or outlooks. In some areas, crime may be less or the need for prompt defense greater. Some of our States may find arguments unconvincing which others accept. Some may have more respect for individual rights than others. But these are not judgments we ought to overrule, least of all on the pretense that we are giving them a so-called opportunity. The main rationale for this amendment is the supposed opportunity for a background check. This is ridiculous since the amendment only provides such an opportunity to States, which do not want the opportunity and to their citizens who have voted it down."

Yet, there is no clear indication of just how the legislation is meant to treat states with some sort of waiting period or licensing system already in place. According to the material put out by HCI, the bill would not impose the federal waiting period if the state had either a waiting period of at least seven days or a background check before a handgun could be transferred. Yet the bill itself provides that a state law would not be in direct and positive conflict if it has a waiting period or a background check. This clearly means that both federal and state laws would co-exist and a dealer or private transferor would have to comply with both federal and state law.

The provision for acceptable state law -- "a waiting period of at least seven days before the transfer or a handgun" -- means that state law allowing "up to" a certain number of days -- with the potential for receipt of the firearm in less than seven days -- would not be acceptable. But, does the legislation also mean that state law must apply to both dealer and private transfers for any exemption to exist?

Ultimately, the NRA will oppose waiting period legislation introduced in this Congress no matter how craftily drafted. As the WALL STREET JOURNAL noted shortly after the murder of John Lennon: ". . . the sudden hue and cry for more gun control at such times is a kind of cop-out, the sort of cop-out that is part of the problem in America.

"The country knows that something is wrong. Too many are turning to crimes of violence. The notion that this can be changed by controlling guns, we worry, may be an

excuse for avoiding the hard work of making our decrepit criminal justice system start to function, and the even harder work of buttressing what used to be called the nation's moral fiber."

I would like to take the time to address specifically some of the material distributed by proponents of H.R. 975.

Handgun Control, Inc., continues to perpetuate the myth that presidential assailant John Hinckley would have been stopped had a waiting period and background check been in place prior to his firearms purchase. We know what the facts are, as I have discussed earlier. Unless HCI is proposing the investigation of personal, and heretofore private, conversations with a psychiatrist or other medical personnel for the purposes of verifying mental stability, the waiting period would not have "stopped" Hinckley from going to Washington, D.C., as HCI continues to insist it would. HCI's continued reliance on its emotional rhetoric merely points up the complete lack of evidence to compel the passage of H.R. 975.

Throughout its material, HCI misuses the word "caught" in reference to individuals denied lawful access to a handgun, for example, in saying that Columbus, Georgia, police "catch" X number convicted criminals under their system, or that Hinckley would "have been in jail instead of on his way to Washington." Rejection under the system does not equate with indictment, conviction, or incarceration for violation of firearms laws. In fact, our contacts with law enforcement around the country confirm that individuals are not prosecuted, much less imprisoned, for violations of restrictive gun laws detected by background checks.

HCI's reference to New Jersey is especially interesting, in so far as it makes a stronger case against institution of their scheme than for its implementation. You may remember receiving a similar packet of information last Congress during the Volkmer-McClure legislative debate. At that time, HCI alleged that New Jersey officials denied applications of "33,000 criminals." NRA-ILA and many others pointed out that, in fact, a

majority of those rejections were not based on previous criminals records; that the system in question included applications for permits to carry a concealed firearm which are frequently denied solely because the issuing authority determines the "need" is insufficient; and that the system allowed denial based on the arbitrary and subjective standard that issuance would "not be in the interest of the public health, safety or welfare."

HCI has now apparently adopted a lower number of "rejections of criminals," by citing 10,000 in this year's mailing. But, according to the New Jersey State Police Firearm Licensing Division, this number is also misleading. The fact is that the "10,000" includes applicants rejected as drug addicts, for medical reasons, as alcoholics, for falsifying records and for the following three completely arbitrary reasons: "public health, safety and welfare," "in-sufficient need," and, of course, "other." The Sergeant we contacted rejected HCI's characterization of the denials, saying, "we don't keep records that way." This is hardly evidence of an efficient system weeding out criminals while protecting the rights of the law-abiding. And in the face of data showing that the level of firearms-related violent crime in the state, and indeed the percentage of firearms involvement in violent crime, has been rapidly rising, relative to the U.S. as a whole, it is obvious that the system is not preventing the criminal acquisition of firearms.

HCI then claims that the Chief of Police in Columbus, Georgia, believes their waiting period system to be working. NRA-ILA staff has followed up on this assertion and has found that the officers responsible for the waiting period system in Columbus do not share the Chief's view, as reported by HCI. In fact, HCI and/or the Chief appear to expand the level of rejections by more than four-fold. And again, denial does not necessarily indicate prevention of criminal acquisition of a firearm, nor does it relate to the level of violent crime in a community.

HCI also approvingly cites Memphis, Tennessee, and Atlanta, Georgia, as

communities where restrictive gun laws are "working." They neglect to point out that those communities are two of the most crime-ridden within their respective states, and indeed within the South as a whole.

As in last year's mailing, HCI again presents Broward County, Florida, as a model for waiting period legislation. And, as in last year's NRA-ILA response, we point out that nearly half of those rejected in Broward were rejected for outstanding traffic warrants and similarly inapplicable causes. Additionally, handgun-related deaths in Broward, and especially suicides, rose after the imposition of a waiting period.

California's Attorney General may have been correct in his assessment of the effectiveness of their system in denying a constitutional right with frequency -- even though the number given represents less than 1/2% of the applicants -- but that assertion is unrelated to any crime reductive effect. It should be noted that the homicide rate in California increased 126% as the state increased the length of its waiting period from 48 hours to 5 days and to 15 days, even as the national rate rose by less than half as much.

HCI also misrepresents the Wright-Rossi felon study, conducted under a grant from the U.S. Department of Justice. That study found no difference in the methods of firearms acquisition by criminals regardless of the type of state "gun control" laws in place. Wright notes that criminals "obtain guns in hard-to-regulate sources . . . . Swaps, purchases, and trades among private parties (friends and family members) represent the dominant pattern of acquisition within the illicit firearms market." HCI would have us believe that these private networks would suddenly dry up, or that they would change their spots and participate in a law enforcement effort aimed at them.

Finally, it is instructive to note that waiting periods, police background checks, and permit-to-purchase systems have been in existence at the state and local level for most of this century. HCI alleges that these laws work, and they have examples in 23 states and dozens, if not hundreds, of cities and counties. Yet when called upon to produce evidence of this efficacy, all that can be mustered are three states and four localities. And, upon further examination, even this scant "evidence" is found to be completely

lacking in relevance at the least, or to be outright deceiving and distorted, if the truth be told.

Mr. Chairman, and members of the Subcommittee, I thank you once again for the opportunity to present the views of millions of NRA members on the legislation proposed here today, H.R. 975. We can only hope that soon our anti-gun opponents will cease wasting the Congress' time on irrelevant, useless, costly, and unconstitutional measures such as this. The timely disposal of the current legislative proposal would free this Congress to address issues providing hope for real reductions in our nation's rate of violent crime, such as the streamlining of our criminal justice system and the imposition of swift and certain punishment for criminal offenders. Thank you.

Mr. HUGHES. Mr. Knox.

Mr. KNOX. Thank you.

I appreciate this opportunity to testify on behalf of the Firearms Coalition.

Although the meeting today does concern and is focused upon waiting periods, it should be mentioned H.R. 155 also includes a ban on future suppressors and silencers, and it revises the language of definition of a suppressor. I don't understand the ban because there has never been an instance of a crime committed with a legal suppressor. But in the definition of suppressor, it says any part.

You will recognize this as a two-liter Coke bottle. It was before the wrapper was broken off. This is a part of a silencer. I would be committing a 10-year Federal felony in your presence if H.R. 155 became the law, Mr. Feighan. This gun—this was attached to a 45 caliber, and I heard it fired. It was as effective as a commercial suppressor. It was done by a legally licensed manufacturer of suppressors, so it was a legal act, I didn't do it.

But having that Coke bottle would make me a violator of H.R. 155. That certainly is not the intent, but that is the effect.

Mr. HUGHES. You would have a hard time concealing that, wouldn't you?

Mr. KNOX. There is no consideration of concealment. Most commercial suppressors are about the size of this.

Mr. HUGHES. That is why they don't use illegal ones generally.

Mr. KNOX. We consider these bills to be a violation of both the constitutionally guaranteed right to bear arms and of the privacy rights. These bills repeal the Privacy Act of 1974 as they apply to the nation's firearms owners for they require the release of privileged information to gun dealers and authorize information to be submitted to Federal and local law enforcement agencies, which has nothing whatsoever to do with whether a buyer is disqualified from ownership.

H.R. 975 includes a full description of the gun, including serial number, which has nothing to do with whether the person is disqualified. Although H.R. 975 requires the law enforcement officers to destroy the report forms within 60 days, there is nothing to prohibit the information on those forms from being entered into a computer, and we, therefore, object on that point.

H.R. 975 is schizophrenic. It assumes that all handgun sellers making private sales are scrupulously law-abiding, while all handgun purchasers are potential criminals and should be subject to police investigation. The bill requires all individuals, as well as dealers, including people making gifts, to delay the sale, the transfer for 7 days, and it would make a world of criminals while being totally unworkable and unenforceable except that it would cause the BATF to once again be out on the rampage trying to make cases, take cases by inducing people to sell a handgun without going through the 7-day waiting period.

Now, the theory behind the cooling-off period assumes that the handgun buyer has no other firearm or other weapon with which to commit an offense, but there have been estimates that 80 percent of handgun buyers already own another firearm. I have been amazed at all the discussion we have had today, and there has not

been one mention of the fact that every time you buy a handgun, you go through this procedure. I own about 100 guns. Every time I buy another gun in the State of Maryland, which has a waiting period, I must go through this same procedure, and the State of Maryland taxpayers pay for it. If the idea is to prevent me from doing something with this gun, what keeps me from doing it with one of them I already have?

Waiting periods are in force now in the States with about two-thirds of the population and three-fourths of the worst crimes. Most of the agitation for these proposals is coming from those States and cities. They try to excuse the failure of their own more restrictive laws on the unwillingness of States with lower crime rates to emulate their lack of success.

A few days ago a Washington, DC, official blamed the lax gun laws in low-crime areas around here for the record number of fatal shootings in the city's vicious drug wars. In what States are cocaine and crack legal? If they can get cocaine and crack if they want it, they can certainly get firearms if they want them.

There has been a lot of discussion about Professor Jim Wright's study done for the Department of Justice, investigating the source of guns of 1947 felons. Some of those were white-collar criminals, 21 percent had obtained their gun through lawful channels. But it found of handgun predators, those we would most like to see not using firearms at all of any type or committing offenses in any way, we find only seven percent had obtained their guns through legal channels. And I am sure those would quit it as soon as they learned this system was in place except for a few dummies like we have heard about today.

The stated objective of the supporters of these bills is to "keep handguns out of the hand of criminals". Professor Wright's research indicates that would be a deadly mistake. Seventy-two percent of handgun predators stated that if for some reason they could not obtain a handgun, they would substitute a sawed-off rifle or shotgun. Having ridden many hours with police officers, I know I would sooner go up against someone with a .32, not a double-barreled shotgun.

The doctors this morning who testified they wanted to see these imposed should consider whether they want to try to treat a .32 bullet wound or double-barreled shot-gun 12-gage wound.

Last year an article appeared in the Montgomery County Journal which enthusiastically reported Maryland's waiting period law had prevented three suicidal persons from obtaining handguns. They had committed suicide by other means while waiting.

While there are unquestionably instances of individuals buying a gun and immediately killing themselves or someone else, a waiting period does not mean the homicide or suicide would have been prevented or even delayed.

Despite all of the emotional claims we have heard this morning, and I think in my experience I believe the fact is, on the basis of study, there is not one city, one State, one nation which has reduced its crime rate by the enactment of any type of gun control law.

Thank you, Mr. Chairman.

Mr. HUGHES. Thank you very much, Mr. Knox.

[The statement of Mr. Knox follows:]

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Testimony of Neal Knox

Executive Director, The Firearms Coalition

Before The House Judiciary Subcommittee on Crime

Concerning H.R. 155 and H.R. 975

February 24, 1988

Mr. Chairman, Members of the Committee,

I appreciate this opportunity to comment on behalf of the Firearms Coalition concerning H.R. 155 and H.R. 975. The Firearms Coalition is composed of more than 2,000 clubs, associations and individuals in every state.

We consider these bills to be a violation of the Constitutionally guaranteed right to keep and bear arms (as discussed in the attached Guns & Ammo magazine article), and the right of privacy -- which the Congress has declared "is a personal and fundamental right protected by the Constitution."

These bills repeal the Privacy Act of 1974 (P.L. 93-579) as it applies to the nation's firearms owners for they require the release of priviliged information to gun dealers, and authorize information to be submitted to Federal and local law enforcement agencies which has nothing to do with whether a buyer is disqualified from ownership.

Further, although H.R. 975 requires law enforcement officials to destroy report forms within 60 days, that language is deceitful, for there is no prohibition against computerizing the information they contain -- including the gun's serial number. There is no privacy consideration in H.R. 155, nor any limit upon the amount or type information that might be required of purchasers of handguns.

H.R. 155 assumes dealers are the only source of guns; it would require a 15-day wait on purchases from dealers, mandate an FBI criminal records check (without considering the tremendous cost), and request local authorities to verify the buyer's residence, determine whether he or she has a criminal record, and examine "readily available" mental records. Any information disqualifying the buyer from ownership would have to be reported to the firearms dealer, who could not complete the transaction, and would have to notify law enforcement agencies.

H.R. 975 is schizophrenic; it assumes that all handgun sellers are scrupulously law-abiding, while all handgun purchasers should be investigated as potential criminals. The

bill would require all sellers, both dealers and individuals, to notify local police agencies and delay the transfer seven days. Police would have the option of checking to determine if the purchaser had a criminal or mental record, or were otherwise disqualified. If enacted, BATF operatives would soon be seducing normally law-abiding citizens to make immediate transfers.

In theory, the bills would provide a "cooling off" period during which an emotionally upset gun buyer might change his mind about killing himself or someone else. The theory presumes that the handgun buyer has no other firearm or other weapon with which to commit such an act -- despite estimates that 80 percent of handgun buyers already own another firearm.

The requirement for a 'waiting period' and police background check before purchase of a firearm is not a new idea. These bills are slight variations of legislation which has been considered -- and wisely rejected -- by several preceding Congresses. However, the idea has been tried in many states, and failed to reduce their crime rates; "waiting periods" are now in place in about one-third the states -- with roughly two-thirds of the population and three-fourths of the worst crimes.

Most of the agitation for these proposals is coming from states or cities which blame the failure of their own more-restrictive laws on the unwillingness of states with lower crime rates to emulate their lack of success. A few days ago a Washington, D.C. official blamed lax gun laws in low-crime areas for the record number of fatal shootings in the city's vicious drug wars. In what states are cocaine and crack legal?

The reason for the failure of firearms laws is that the targets -- felonious misusers of firearms -- do not obtain their guns through regulated commercial channels. That was the finding of Prof. James Wright of the University of Massachusetts, who discovered that only 7 percent of "handgun-using predators" obtained their guns from licensed dealers, and that 70 percent of their guns were known or believed to be stolen ("The Armed Criminal in America: A Survey of Incarcerated Felons").

The effect of these bills is the same as requiring police to stop and search every car traveling the interstate highways -- causing slowdowns in legitimate travel, while 93 percent of the crooks were known to be driving the back roads (and virtually all criminals would once the roadblocks became known).

What makes Prof. Wright's studies so compelling is that they were funded by the National Institute of Justice, Department of Justice, and the fact that he began his first study in 1978 ("Weapons, Crime and Violence in America") as a staunch advocate of additional restrictive gun laws. Although it was his purpose to determine the most-effective form of firearms law, he could find <u>no gun laws that had effectively reduced the crime rate.</u>

The stated objective of supporters of H.R. 155 and H.R. 975 is "to keep handguns out of the hands of criminals." Prof. Wright's research indicates that would be a deadly mistake: 72 percent of handgun predators stated that if for some reason they could not obtain a handgun, they would carry a more-lethal sawed-off shotgun or rifle, and 77 percent of them had sawed off a gun in the past (which is a rarely prosecuted Federal felony).

If either bill were enacted and succeeded in "keeping handguns out the hands of criminals, it could double the murder rate, for shotguns are about three times as deadly as handguns.

I feel it is unfortunate that the committee has not heard from objective researchers such as Prof. Wright or Prof. Gary Kleck of Florida State University (though I do not fully subscribe to either of their findings).

Since few mental records are available to police, and a records check would be unlikely to disqualify a suicidal buyer, the only possible advantage of these bills would be the "cooling off" period; but that could only affect 20 percent of buyers, and there is no evidence that either suicide or "passion murders" have declined where "cooling off" periods have been imposed.

While there are unquestionably instances of individuals buying a gun and immediately killing themselves or someone else with it, a waiting period does not mean the homicide or suicide would have been prevented or even delayed. Last year an article in the Montgomery County Journal (Maryland) enthusiastically reported that Maryland's waiting period law had prevented three suicidal persons from obtaining handguns -- they had committed suicide by other means while waiting. The reporter didn't grasp the fact that the waiting period failed to prevent their deaths.

As an active shooter and occasional firearms technical writer, I own more than 100 guns, yet I must go through Maryland's waiting period procedure every time I obtain another handgun from or through a dealer -- sometimes four or five times per year. Each time the Maryland state police must waste the taxpayers' money making certain I am not prohibited from owning a gun -- although their records show that I own many.

According to the most recent data supplied to Maryland Delegates, for the years 1982-84 there were an average of 27,300 handgun purchases each year and 127 denials by the State Police (one-half percent). During Senate testimony last summer, a member of the Maryland State Police testified that they were bringing charges against 14 persons with serious prior offenses who had attempted to buy handguns. We have learned the outcome in one of those cases: a guilty plea by a man who had committed an armed offense when he was 17, and thought his conviction no longer disqualified him, for it occurred when he was a juvenile -- and because the offense had occurred almost 40 years before.

The advocates of H.R. 975 and H.R. 155 have repeatedly stated that if they had been in place, John Hinckley Jr. could not have obtained the gun with which he shot President Reagan and Jim Brady. That simply is not true. Even if Hinckley could not have bought a gun from other than a dealer -- which he could have -- his Texas drivers' license was valid, he had no disqualifying criminal record (despite having been arrested and having had two guns confiscated at the Nashville airport), and treatment of mental illness by a private physician is not a public record.

Although these hearings are intended to focus primarily upon the "waiting period" question, it should be mentioned that H.R. 155 also prohibits "hard to detect" firearms and "suppressors." The former section would allow an unscrupulous Administration to ban virtually any handgun, by declaring it to be "not readily detectable," for which a synonym is "concealable."

The section banning suppressors simply cannot be justified on any grounds except prejudice, for there are no known examples of legally-owned and licensed "silencers" being used in crime.

Further, the language prohibiting transfer and possession of "silencers" is dangerously vague, for the definition allows prosecution for possessing "any part ... intended for use in a" silencer or suppressor. It replaces the language used in present law which requires that for a prosecution to be based upon possession of a single part, that part must be usable solely in a suppressor.

I have various suppressor "parts" in my home, including hardware store "fender washers" commonly used for carpentry and home-made suppressor baffles, and a plastic 2-liter Coca-Cola bottle with a bullet hole in the bottom.

The Coke bottle was actually used as a suppressor by screwing it into an adaptor fitted to a .45 caliber MAC-10. It was fired in my presence by the licensed suppressor manufacturer who made it, and for one shot it was almost as effective as a commercial silencer. Although the bottom of the bottle is shattered, making it useless as a silencer part, would my possession of that Coke bottle be violation -- bearing in mind that it had been an integral part of a silencer? Would my possession of an intact 2-liter plastic Coke bottle be a violation of H.R. 155?

Those questions are not facetious. I was at a Pomona, California, gun show in November 1986 when police arrested a man for possessing a spanner wrench used for suppressor disassembly. He was charged with violating the McClure-Volkmer bill, which uses far more precise language than H.R. 155.

The definition of "silencer" used in H.R. 155 covers any device capable of "muffling, or diminishing the report" of a firearm. That language dates from the days when there were no

sound-measuring devices. I'm aware of a conviction of a man who made suppressors which failed to reduce the sound enough for the ear to detect, but which produced a sound reduction detectable by sensitive instruments. Even greater sound reduction -- clearly audible to the naked ear -- can be accomplished merely by installing a slightly longer barrel on a firearm.

If there are any changes in the suppressor definition, they should reflect developments in sensitive instruments, and establish a significant percentage of sound reduction as an objective standard. There should be no change in present language describing a single suppressor part as one used solely in a suppressor.

Since some members of the committee seemed to doubt my October 1985 testimony as to the sporting use of silencers, it should be noted that the original patent by Hiram Maxim envisioned the devices as being used for recreational shooting while causing less disturbance to neighbors. I'm told suppressors -- actually only mufflers -- are today commonly used for both hunting and short range trap shooting in both France and England.

In conclusion, I urge members of the committee to review the summary of Prof. Wright's "Armed Criminal in America" study, published in November 1986 by the National Institute of Justice. I am attaching a copy to my testimony and request that it be made a part of the record. Particularly note the "Implications For Gun Policies" which state, in part:

"Controls imposed at the point of retail sale would not be effective in preventing the acquisition of guns by serious adult felons because these felons rarely obtain their guns through customary retail outlets" and

"(C)ertain commonly proposed gun-banning measures could have strongly undesirable consequences, resulting in the substitution of more powerful and more lethal firearms." (Note that these bills attempt to enforce the existing ban upon possession of firearms by felons.)

If Congress were asked to fund an experimental engine that ran on sea water instead of gasoline, the first thing that would be demanded is some evidence that it would work. If Congress learned that a third of the state legislatures had already funded such an engine, and that it hadn't worked, they would throw the con man and his water-powered engine off Capitol Hill.

No less should be done to H.R. 975.

Thank you for this opportunity to present our views.

THE SECOND AMENDMENT— OUR FREEDOM GUARANTEE

Despite argument and dissent, our domestic security stems from this simple statement of rights.

By Neal Knox

During the recent 200th birthday celebration of the U.S. Constitution, there was much attention paid to the Bill of Rights, particularly the First Amendment freedoms of press and speech, but almost nothing said concerning the Second Amendment right to keep and bear arms. When mentioned at all, the Second Amendment is usually referred to as a "dinosaur" or casually dismissed as only applying to the National Guard.

This is appalling treatment for that section of the Bill of Rights that is *intended to guarantee all the other freedoms!*

Consider what Supreme Court Justice Story wrote in 1833: "The right *of the citizen* to keep and bear arms has justly been considered as the palladium [guardian] of the liberties of a republic; since it offers a strong moral check against the usurpation and arbitrary power of rulers."[1]

"The beauty of this freedom insurance plan is that so long as the right exists, it is never needed."

The Texas Supreme Court put it more bluntly in an 1859 decision: "(T)he people cannot be effectually oppressed and enslaved, who are not first disarmed."[2]

That is precisely the point made by students of government from Plato to Machiavelli to John Locke—all of whose works were familiar to the 55 learned men who gathered at Philadelphia to draft our Constitution 200 years ago. It would not have occurred to them that the limited government they created—with its emphasis upon individual liberties—might consider banning individual firearms, for *the right to keep and bear arms was an absolute right* (according to their contemporary, the preeminent authority on the common law, Sir William Blackstone[3]).

The Second Amendment has nothing to do with hunting, target shooting, gun collecting or any other recreational use of firearms. The Second Amendment does, however, affect your ability to defend yourself, your family, and your nation. The beauty of this "freedom insurance" plan is that so long as the right exists, it is never needed.

The weekend that President Nixon fired the Special Prosecutor investigating his role in Watergate, I mentioned a pending gun bill to a friend. "How can you think about gun control when Nixon is about to mobilize the Army and declare himself dictator?" he exploded.

I didn't believe that the President had any such intention, but replied, "The fact that we still have our guns is what guarantees that he won't."

My friend looked at me in astonishment, then said, "For the first time I understand why you fight gun control."

The Founding Fathers would have understood; they fought a bloody revolution when the British tried to take the guns at Concord and the powder at Williamsburg. Having overthrown one oppressive government, the delegates to the Constitutional Convention were extremely concerned about not re-creating chains such as those they had just broken. Yet they knew that if their hard-won freedom was to be preserved, they had to construct a stronger national government than the loose confederation of states that existed.

While framing our Constitution, the Founding Fathers unanimously rejected a bill of rights—to the dismay of Thomas Jefferson—for they didn't think one necessary in a government with limited powers. But the people refused to accept the new Constitution without amendments spelling out each *individual citizen's* rights.

We are continuously told that those first ten amendments—known collectively as the Bill of Rights—are fundamental rights of all U.S. citizens, but for well over 100 years the U.S. Supreme Court considered the Constitution as a limitation only upon the laws passed by Congress. Not until this century did the Court begin to decide that the Fourteenth Amendment caused the Bill of Rights to also prohibit state laws infringing speech, religion and other freedoms. Nine of the ten amendments contained within the Bill of Rights are generally interpreted as rights of the "individual." The sole exception is of course the *Second Amendment.*

"The right *of the citizen* to keep and bear arms has justly been considered as the guardian of the republic."

The Second Amendment clearly was intended as an individual right, for it says: "A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

"The people" guaranteed the right to peaceably assemble in the First Amendment, and "the people" guaranteed freedom from unreasonable searches in the Fourth Amendment, were unquestionably the same "the people" guaranteed the right to keep and bear arms in the Second Amendment. Justice Hugo Black, who in 1960 wrote that the Second Amendment was an "absolute" prohibition against Congressional infringement,[4] repeatedly criticized the Court for picking and choosing which of the Bill of Rights' amendments were to be protected from state laws.

(Some have confused the phrase "well-regulated militia" with government

regulation; in colonial times "well-regulated" meant well-disciplined[8] or proper-functioning. It referred to both the militia and the guns they were required to provide; the phrase still has the same meaning in relation to firearms, for double-barrel guns are "regulated" to shoot to the same point of impact.)

The Second Amendment didn't merely authorize the states to have militia, for that had already been covered in the main body of the Constitution.[9] However, it is true that some Congressmen *wanted* the Second Amendment to be only a collective right, rather than an individual right. *They lost.*

During Senate debate on what became the Second Amendment, an amendment was offered to make it read "the right of the people to keep and bear arms '*for the common defense*.' "[10] It was soundly rejected. Perhaps that effort to limit the right was proposed because there had been an armed rebellion in Massachusetts only two years before, or because there was concern about armed criminals and highwaymen even then, but the Second Amendment cannot now be said to apply only to "the common defense" when the legislative history shows that such an effort to water it down was specifically proposed and defeated.

The initial version of what became the Second Amendment had added "but no person religiously scrupulous of bearing arms shall be compelled to render military service." Congressman Elbridge Gerry of Massachusetts opposed that phrase, saying "the people in power . . . can declare who are those religiously scrupulous, and prevent them from bearing arms."[11] Congress was clearly discussing an individual right, for *only individuals can be "religiously scrupulous."*

"Some Congressmen *wanted* the Second Amendment to be only a collective right."

With such clear evidence as to the intent of the Second Amendment, why can't the Supreme Court see it? The short answer is: They don't want to.

According to Justice William O. Douglas' biographer, shortly after his appointment to the Supreme Court he was told by Chief Justice Hughes, "You must remember one thing. At the constitutional level where we work, ninety percent of any decision is emotional. The rational part of us supplies the reasons for supporting our own predilections."[12] What makes that startling admission particularly significant is that Douglas was appointed in early 1939, the same year the only Second Amendment decision in this century was handed down—accepting the National Firearms Act.

There have been only three significant Supreme Court decisions involving the Second Amendment: *U.S. v. Cruikshank*, 1876,[13] *Presser v. Illinois*, 1886,[14] and *U.S. v. Miller*, 1939.[15] Handgun Control Inc. often quotes from *Cruikshank*, which says: "the bearing of arms for a lawful purpose is not a right granted by the Constitution." They never quote the next sentence from that decision: *"Neither is it in any manner dependent upon that instrument for its existence."*

The Court stated in *Cruikshank* that since the First and Second Amendments limited only the Congress, *they did not prohibit the Ku Klux Klan from conspiring with local officials to prevent newly freed black slaves from holding political meetings or having guns.* It boggles the mind to hear so-called "Liberals" proudly cite the *Cruikshank* decision.

"With such clear evidence as to the intent of the Second Amendment why can't the Supreme court see it?"

The fact is that denying guns to freed slaves was the start of the "gun control" movement.

Only 19 years before the *Cruikshank* decision, in the infamous Dred Scott decision (one of the factors leading to the Civil War), the Court had ruled that a freed slave was not "entitled to the privileges and immunities of citizens" for that "would give to persons of the negro race . . . full liberty of speech . . . to hold public meetings upon political affairs, and *to keep and carry arms wherever they went.*"[13] (our italics)

In 1982 the lower courts upheld the Morton Grove handgun ban, citing both *Cruikshank* and the 1886 *Presser v. Illinois* decision that the Second Amendment "is a limitation only upon the power of Congress and the National Government, and not upon that of the states." The Supreme Court declined to consider the appeal,[16] which isn't the same as upholding the Morton Grove law, although it had that effect.

If the Supreme Court were consistent, it would have overturned both the *Cruikshank* and *Presser* decisions to bring them into accord with more recent decisions based on the Fourteenth Amendment. The Supreme Court didn't include the Fourth Amendment's protection of "the people" against unreasonable searches as a protection against state laws until 1961. However, in 1871, only three years after the Fourteenth Amendment was ratified, Rep. John A. Bingham, who drafted it, said "the privileges and immunities of citizens of a state are chiefly defined in the first eight amendments to the Constitution. . . . The eight articles . . . never were limitations upon the power of the States, *until made so by the fourteenth amendment.*" (our italics)

But long before the Fourteenth Amendment, the Georgia Supreme Court held that the right to keep and bear arms was not to be tinkered with by any level of government: "'The right of the people to bear arms shall not be infringed.' The right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear *arms* of every description, and not *such* merely as are used by the *militia*, shall not be *infringed*, curtailed or broken in upon, in the smallest degree. . . . Our opinion is that any law, State or Federal, is repugnant to the Constitution, and void, which contravenes this *right*. . . ."[17] (italics in original)

(The Georgia court went on to distinguish between "keeping" and "bearing." As David Hardy noted in *Origins and Development of the Second Amendment*, although "keeping" arms was an absolute right under the common law, restrictions were permissable on "bearing arms"—which could not be borne for the purpose of terrifying the populace. The right to bear arms never applied to anything other than self-defense weapons, so in answer to one of the sillier arguments of the anti-gunners: No, the Second Amendment doesn't guarantee the right of citizens to own individual nuclear weapons.)

"The fact is that denying guns to freed slaves was the start of the gun control movement."

College students are told in supposedly scholarly works like *The Meaning of The Constitution* that the Second Amendment "merely prevents the federal government from disarming the members of the National Guard."[18] That's nonsense, for even that book acknowledges that the intent of the Second Amendment was to "protect the citizen against unconstitutional usurpation of power by the federal government."

The National Guard cannot possibly serve as such a brake upon a tyrannical

continued on page 81

RKBA

continued from page 33

federal government, for the Guard is part of the U.S. Army and is always subject to the orders of the federal government. Example: In 1957, Arkansas Governor Orville Faubus called out the National Guard to enforce the state's laws segregating Little Rock High School. President Eisenhower immediately placed the Arkansas Guard under Federal control and ordered them to support Army paratroopers sent to Little Rock to *enforce* court ordered desegregation .

Exactly 30 years later, in August 1987, a Federal court in Minnesota made it clear who commands the National Guard by ruling against the efforts of Minnesota Governor Rudy Perpich to prevent the state's National Guard from being sent to Central America for training.[7] So even if the Second Amendment applied only to militia, the National Guard is—as the Minnesota court ruled—only "*part* of the militia." What you may not realize is that if you are capable of using a gun, *you are automatically part of today's militia.*

Only four months after the Constitution was ratified, Congress formally reestablished the two classes of militia that had existed during colonial times: (a) those who were formally organized into units, and (b) *all other able-bodied men aged 18 to 45.*[8] When the National Guard was created in 1903, it specifically did not replace the militia, only added a third category, and both organized and unorganized militia are still recognized in current law.[9] But the total unorganized militia is even broader than the statute, comprising, according to the Supreme Court in *U.S. v. Miller*, all persons "physically capable of acting in concert for the common defense."

"The Second Amendment must be defended . . . to ensure all of our freedoms, and the freedoms of those Americans as yet unborn."

In that 1939 case, the only time the Court has ever considered a Federal gun law, the Supreme Court did what it usually does when faced with a political hot potato: it avoided ruling directly on whether the National Firearms Act is a violation of the Bill of Rights. Instead of addressing the Constitutional rights of a person, which was the issue at stake, it dealt with the characteristics of a gun.

The court evasively stated: "*In the absence of any evidence* that possession or use of a 'shotgun having a barrel of less than eighteen inches in length' at this time has some reasonable relationship to the preservation or efficiency of a well-regulated militia, we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly *it is not within judicial notice* that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense." (our emphasis)

The reason there was no evidence, and no judicial notice, was that *no one appeared before the Court to defend the Second Amendment!* Only the Justice Department's argument was heard—and it was headed by the same Attorney General who had proposed the law in the first place. (Attorney General Homer Cummings had told a house committee that because the National Firearms Act was based on the government's taxing powers, it did not violate the Second Amendment, but *would if it were an outright ban*[10]—as is the recently enacted machine gun freeze.

Short-barrelled, smoothbored guns always have been used in armies, and still are. However, even by the narrow standards on which the Court decided *Miller*, the law's prohibition against full automatic arms was unquestionably unconstitutional, for they were and are undeniably a part of "militia" armament—and the law says we're all part of the militia.

Although the National Rifle Association had frequently argued that various proposed gun laws violated the Second Amendment, in 1934 NRA made a deal to support the National Firearms Act if handguns were removed from the bill,[11] so they didn't get involved with *Miller*.

In 1982, the Senate Judiciary Subcommittee made an in-depth study of the Second Amendment and issued a lengthy report stating: "What the Subcommittee on the Constitution uncovered was clear—and long-lost—proof that the second amendment to our Constitution was intended as an individual right of the American citizen to keep and carry arms in a peaceful manner, for protection of himself, his family and his freedoms."[12]

So why are we spending so much time, money and energy fighting gun laws in the states and in the Congress? If we're so certain of the meaning of the Second Amendment, why don't I, on behalf of the Firearms Coalition, simply file a case to make the Supreme Court give a proper interpretation to the Second Amendment? Because no one "makes" the Supreme Court do anything.

A proper Second Amendment decision—based upon the intentions of those who wrote and ratified it—would strike down most of the Federal gun laws and many state laws. Realistically, we don't expect that to happen, for (as indicated by the fight over the confirmation of Judge Robert Bork) the Supreme Court is just as political as the Congress or the White House.

Therefore, the possibility of significant court-granted relief from unconstitutional gun laws, particularly state laws, is slight at best. However, we may be able to strike down gross excesses like the machine gun freeze and some of the Treasury regulations that go beyond the law. Despite what the Constitution says—and what those who ratified it intended—no gun bill in recent history has been defeated, and no gun law has ever been overturned, because it violates the Second Amendment. But *thousands of gun bills have been defeated, and dozens of gun laws have been overturned,* because elected officials fear the wrath of gun owners at the polls.

"The Second Amendment 'merely prevents the federal government from disarming the members of the national guard.' That's nonsense . . ."

Political action—the diligent exercise of our First Amendment right to petition the Congress—is the kind of defense of the Second Amendment that works. That is why we must expand our political clout and not be timid about using the power that we have.

The Second Amendment *must* be defended, and never compromised, for the very same reasons that the Founding Fathers wrote and ratified it 200 years ago—to ensure all of our freedoms, and the freedoms of those Americans as yet unborn. ♣

AUTHOR'S NOTE: *Much of this article is based upon the Morton Grove handgun ban brief prepared under the direction of the late Jim Featherstone, a patriot who served as the head of NRA-ILA's Legal Division during my watch. My appreciation to David I. Caplan, Ph.D., Robert Dowlut, Richard Gardiner and Stephen Halbrook, Ph.D., for their pioneering works on the Second Amendment, which were also studied. Special thanks to Dave Hardy, author of* Origins and Development of the Second Amendment *(Blacksmith Press, $11.95) and many other books and articles concerning firearms rights, who reviewed this manuscript and made much-appreciated suggestions.*

(1) *Commentaries on the Constitution of the United States*, Section 1890, pp. 746-747 (1833). (2) *Cockrum vs. State*, 24 Tex. 394 (1859). (3) *1 Blackstone Commentaries* 139, 144. (4) Black, The Bill of Rights, 35 N.Y.U. L. Rev. 865, 873 (1960). (5) *II Compact Edition Oxford English Dictionary* 2472 (1971). (6) Art. I Sec. 8. (7) *Journal of the First Session of the Senate of the United States*, p. 77 (1820). (8) Annals of Congress, 749-750 (August 17, 1789). (9) Mason, William O. Douglas, *A Judiciar for All*, cited by Robert Dowlut, "The Right to Arms: Does the Constitution or the Predilection of Judges Reign?" Oklahoma Law Review, Vol. 36, No. 1 (1983). (10) 52 U.S. 542 (1876). (11) 16 U.S. 252 (1846). (12) 307 U.S. 174 (1939). (13) *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393, (15 L.Ed. 691 (1857). (14) *Quaco v. Village of Morton Grove*, 695 F. 2d 261 (7th Circ. 1982). (15) *Nunn v. State*, 1 Ga. 243 (1846). (16) Angela R. Holder, *The Meaning of The Constitution*, Barron's Educational Series, 1987, p. 63. (17) *Perpich and State of Minnesota v. Dept. of Defense, et al, 3-87 Civ. 54, August 3, 1987*. (18) Militia Act of 1792. (19) U.S. Code, Title 10, Sec. 311. (20) Hearings on the National Firearms Act, H.R. 9066, Committee on Ways & Means, 73rd Congress, Ken. 18, 1934. (21) National Firearms Act hearings. (22) *The Right to Keep and Bear Arms*, Report of the Subcommittee on the Constitution, U.S. Senate Committee on the Judiciary, Chairman Orrin Hatch, February, 1982, p. viii.

U.S. Department of Justice
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National Institute of Justice / Research in Brief

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The Armed Criminal in America

James D. Wright

Violent crime that threatens or abuses the physical safety of its victims lies at the heart of the crime problem in America today. In turn, the use of firearms to commit these crimes increases the seriousness of the violence problem. Each year, some 30,000 Americans die through the suicidal, homicidal, or accidental abuse of guns; several hundreds of thousands are injured; many hundreds of thousands more are victimized by gun crime. And the contribution of armed crime to the public's *fear* of crime is incalculable.

To shed light on armed crime, the National Institute of Justice recently sponsored a study that surveyed more than 1,800 convicted adult felons (all men) incarcerated in 10 States throughout the country. The survey asked these felons how and why they obtain, carry, and use firearms, especially in the commission of criminal acts.

This *Research in Brief* summarizes the results and policy implications of the study as they pertain to the nature of the criminal firearms market, criminal firearms preferences, the motivation to own and carry guns, and how members of the survey sample thought they would respond to various types of gun regulation.

These results and implications apply only to the particular criminal population studied: serious adult male felons. Other groups, such as juvenile offenders, first offenders, female offenders, and less serious (nonfelony) adult male offenders may have very different patterns of firearms acquisition, ownership, and use. Therefore, they

From the Director

The armed predators who use guns in the course of their crimes are the source of much of the violence and fear that plague many urban neighborhoods. The debate over how to keep guns away from criminals has been intense and longstanding. Until recently, legislators and policymakers have had little empirical data to inform the debate.

If we are to achieve the goal of separating predators from guns, then we need to know how and where they obtain their weapons and how they use them in their criminal activities. This *Research in Brief* summarizes the findings of a National Institute–sponsored study that provided valuable new information about these questions. The knowledge produced by this study was cited by those involved in the policy debate over new gun control legislation passed by the Congress in 1986.

Based on interviews with more than 1,800 incarcerated felons, the study found that few of the gun-owning felons had bought their guns from a retail source. Rather, the majority usually obtained them from family members or friends or on the street. Often they stole them.

This research can help in the effort to develop more effective strategies to keep the predator from weapons of terror. The findings suggest that, for career criminals at least, vigorous enforcement and tougher penalties for those who commit crimes with firearms may be more effective than regulation. Our emphasis ought to be on "use a gun, go to jail."

New technology may also aid in the search for solutions. If we could do a better job of detecting concealed weapons, our emphasis would shift from efforts to control weapons at the point of purchase to identifying those who are carrying and using guns for crime so they can be arrested and prosecuted.

NIJ is pursuing research toward a weapons-detection system that could reliably indicate concealed firearms. While much additional testing will be required before a system becomes operational, initial indications are promising.

All sides of the debate over gun control acknowledge that the use of weapons in crime is a major threat to the public and a pressing issue for policymakers. The National Institute is pleased that this research has contributed to informed discussion of the key issues. Advances in the technology of weapons detection may help shape new and more effective policies to help curb violent crime.

James K. Stewart
Director
National Institute of Justice

may respond to entirely different criminal justice initiatives.

A typology of armed criminals

To facilitate analysis of the survey, the research developed a general typology of criminals based on their weapon use in crime. The largest group (39 percent) within the 7-category typology is the *unarmed criminal*, men who had never committed any crime while armed with a weapon and who function as a comparison group in most of our analysis.

Also defined are two groups of "armed—not-with-a-gun-criminals" (11 percent)—men who had committed armed crimes but never with a firearm. Based on the weapon used most frequently, this group is further divided into *knife criminals* and *improvisors*, the latter typically armed with a variety of ready-to-hand weapons.

The other half of the sample are *gun criminals*, who have been divided into four groups based on their frequency of gun use in crime: one-time firearm users (men who had committed one, but only one, gun crime); sporadics (men who had committed "a few" gun crimes); and two types of predators (men who had committed many gun crimes): handgun and shotgun predators, depending on what kind of gun they said they had used most frequently. Table 1 shows the distribution of the total sample across these seven categories.

Table 1 also shows the average "total criminality" score in each of the seven categories. (This score reflects the sum of all the crimes a felon reported ever having committed, weighted by the seriousness of each offense.) The results confirm that the felons identified as gun predators are overwhelmingly the most active criminals in the sample; the two predator groups (handgun and shotgun), who make up about 20 percent of the sample, account for approximately half the sample's total criminality.

Points of view or opinions expressed in this publication are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Table 1

Total criminality of offenders by typology of weapons used in crime

Criminal type	Number of offenders	Percent of total sample	Average "total criminality" score*
Total sample	1,874	100	139
Unarmed criminals	725	39	61
Armed not-with-a-gun criminals			
Improvisors	79	4	101
Knife criminals	134	7	109
Gun criminals			
One-time gun users	257	14	84
Sporadic gun users	257	14	151
Handgun predators	321	17	332
Shotgun predators	101	5	265

*"Total criminality" is an index measure or score reflecting the sum of all the crimes the felon had ever committed (as reported in the study questionnaire) weighted by the seriousness of each offense. The index numbers have no intrinsic meaning except that lower numbers mean fewer or less serious crimes and higher numbers mean more or more serious ones. The table shows the average score on this index for each group.

The nature of the criminal firearms market

Three-quarters of the sample said they had owned one or more firearms at some time in their lives. Seventy-nine percent of these—more than 1,000—said they had owned at least one handgun. The handgun owners responded to a number of detailed questions about the methods and sources they used to acquire their most recent handguns. Their answers provide previously unavailable details describing the nature of the criminal gun market. The principal results:

(1) Legitimate firearms retailers play only a minor role as direct sources of handguns for adult felony offenders.

Only about one-sixth of the gun-owning felons obtained their most recent handguns through a customary retail transaction involving a licensed firearms dealer. The remainder—five out of six—obtained them via informal, off-the-record transactions involving friends and associates, family members, and various black market outlets. The means of acquisition from these informal sources included cash purchase, swaps and trades, borrowing and renting, and often theft. The criminal handgun market is overwhelmingly dominated by informal transactions and theft as mechanisms of supply.

The off-the-record nature of the market is further illustrated in the responses to a series of questions concerning the ease with which these men felt they could arm themselves upon release from prison. (As convicted felons, of course, all these men are legally prohibited from acquiring guns upon release, under provisions of the Gun Control Act of 1968 and the Omnibus Crime Control and Safe Streets Act of 1968.) Most of the sample (gun owners and nonowners alike) thought it would be "no trouble at all" to acquire a gun upon release; about 80 percent felt they could obtain a suitable handgun in a few days or less. When asked where they would go for guns, their sources were friends, the street, and various black market sources.

These results suggest certain policy implications. Policies attempting to regulate handgun acquisition at the

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point of retail sale may be effective in preventing some types of criminals from acquiring firearms (e.g., juveniles or nonfelony offenders), but they are likely to have little effect on the most serious handgun-owning felons represented in this sample. Hardcore felons of the sort studied in this research rarely use customary retail channels to obtain handguns.

(2) Gun theft plays a critical role in connecting the adult felony offender to his firearms supply.

Half the men in the total sample had stolen at least one gun at some time in their lives (as shown in Figure 1). Many had stolen more than one. A few, particularly the more predatory felons, had stolen guns in extremely large numbers. At least 40 percent and perhaps as many as 70 percent of the most recent handguns owned by this sample were stolen weapons. These percentages include not only the guns that the felons stole themselves (32 percent), but also guns that the felons knew or believed to have been stolen prior to their acquisition of them.

Like other theft, gun theft appears to be an "opportunity" crime: most gun thieves (76 percent) stole guns when they came across them, not because they were looking specifically for a gun to steal. The purpose of most gun thefts (70 percent) was to sell or trade the gun to someone else, rather than to obtain one for personal use. Still, most of those who had ever stolen guns kept at least one of them for personal use, usually because the stolen gun was a better quality weapon than the gun they were carrying at that time.

Most gun thefts (84 percent) occurred in private residences, but thefts from "high-volume" sources (retailers, wholesalers, shippers, and manufacturers) were also widely reported. These high-volume thefts may in fact account for a larger share of the total volume of stolen guns, due to the potentially greater number of guns stolen per theft.

The ideal gun control policy would be one that directly affects the illicit user but leaves the legitimate user pretty much alone. Formulating such a policy, however, presupposes a sharp distinction between the licit and illicit markets, a distinction seriously eroded by the heavy volume of gun theft from legitimate owners. The survey data suggest that a successful policy for controlling criminal access to firearms must necessarily address the problem of gun theft, perhaps including measures for informing legitimate owners about the extent and seriousness of gun theft and about procedures for adequately securing their firearms.

Criminal firearms preferences

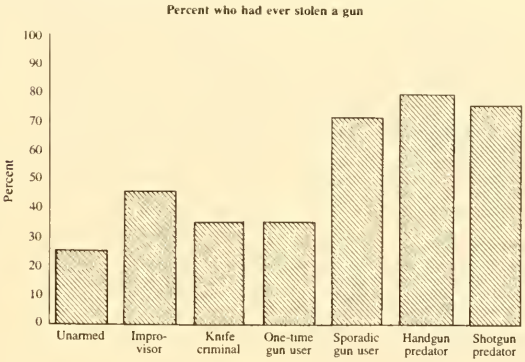
Many gun control policy proposals are targeted to particular classes of firearms: to handguns in general or, somewhat more commonly, to certain restricted classes of handguns, particularly the small, cheap, low-quality ones. The rationale for such proposals is two-fold: (1) legitimate gun owners have little or no need for or interest in such firearms and (2) illegitimate gun owners do.

To assess the nature of the criminal demand for firearms, the survey asked for information on both the qualities the sample preferred in a handgun and the characteristics of the most recent handgun they had actually owned. Contrary to popular belief, neither line of questioning revealed much interest in small, cheap handguns among the adult felons in this sample. Such interest as was observed was concentrated among felons who had never used firearms to commit crimes.

The hardened firearms criminals in the sample both preferred to carry and actually carried relatively large, well-made weapons. The most common among the recent handguns owned was a Smith and Wesson .38 equipped with a 4-inch barrel. No more than a third of the most recent handguns owned by criminals would qualify as "snubbies" (barrel length of 3 inches or less), and only about 15 percent would qualify as "Saturday Night Specials."

Figure 1

Gun theft by criminal type



While the average price felons paid for their most recent handguns was not especially high—falling in the $100 to $200 range—the average quality of these guns was relatively high. Presumably, gun prices are heavily discounted in the markets exploited by these men.

Analysis of the relationship between types of firearms carried and extent of criminal activity revealed that the more a felon used his guns in crime, the higher the quality of the weapon he carried. Among the truly predatory criminals in the sample, the small, cheap handgun was definitely not the weapon of choice.

Much the same results were obtained in questions about *preferred* handgun characteristics. In general, far more interest was shown in features such as accuracy, firepower, traceability, and quality of construction, than price or size.

The study concluded from these findings that the strategy of purging the market of small, cheap handguns may be largely irrelevant to the felons most likely to commit gun crimes. It is, of course, possible that such handguns are much more important to first offenders, juveniles, or other classes of criminals. Gun criminals in this sample, however, did not have much interest in small, cheap handguns.

The motivation to own and carry guns

One reason criminals acquire and carry handguns is because many crimes are easier to commit if armed than if not. Beyond these obvious criminal motivations, however, the survey also shows that gun criminals own and carry guns because they were raised around guns and have owned and used them all their lives.

Most of them associated with other men who owned and carried guns as well. Furthermore, the majority tended to keep their guns loaded at all times and to fire them regularly, often at other people. Half the men in the sample claimed to have fired a gun at someone at some time; half also claimed to have been fired upon (excluding military service in both cases).

In fact, many respondents stated that a man who is armed with a gun is "prepared for anything that might happen"—an opportunity to commit a crime or the need to defend oneself against the assaults or predations of others. Therefore, while handgun carrying among felons is in part a rational response to the nature of their criminal activities, it is, in equal measure, an element of the lifestyle arising from early socialization and from fear.

Given these results, it is not surprising that the major motive acknowledged for acquiring and carrying guns was self-protection. Concerning their most recently owned handgun, 58 percent of those who had ever owned a handgun cited "self-protection" as a very important reason for the acquisition; "to use in my crimes" was very important to only 28 percent. ("Self-protection," in this context at least, must be interpreted with some caution. Part of it no doubt implies protection against being preyed upon or continually harassed by other criminals who are better armed. Another part implies protection against armed victims, against the police, and against the prospects of apprehension during a crime.)

In this connection, about two-fifths of the sample had at some time in their careers encountered an armed victim; an equivalent percentage had at some time decided *not* to commit a crime because they had reason to suspect that the intended victim was armed. (These findings, too, must be interpreted with caution. Although the survey did not ask who these "intended victims" were, it is likely that many would be the felons' own "colleagues," since men of the sort studied in this research are clearly not above preying upon one another.)

A third of the sample (of gun criminals only) made it a practice to carry a gun more or less all the time, as shown in

Figure 2

Patterns of handgun carrying by gun criminals

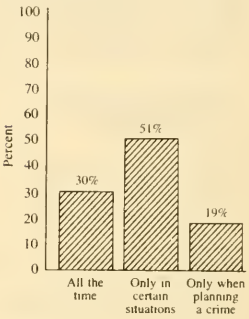


Figure 2. This ranged from about 10 percent for the one-time gun users to more than 50 percent for the handgun predators. Another half carried a gun whenever the circumstances seemed potentially dangerous—when doing a drug deal, when going out at night, when they were with other men carrying guns or, more generally, whenever their ability to defend themselves might be at issue. Only one in five of the gun criminals claimed that they carried a gun *only* when they intended to commit a specific crime. Consequently, the actual *use* of guns in crimes appears to be more a by-product of strongly ingrained gun-carrying habits, rather than the result of intentional planning for armed offenders.

The response of felons to gun policy measures

Proposals for new gun legislation surface with some regularity. The survey asked felons how they thought they would respond to some of these proposed measures. The results are obviously conjectural, but nonetheless of considerable interest as indicators of how felons themselves expect such measures would affect them.

First, the felons were asked what they thought they would do if "the cheapest handgun you could find cost more than you could possibly afford to pay." Among gun criminals, most said they would either borrow or steal the handgun they wanted; others said they would respond by carrying sawed-off shoulder weapons.

Next, they were asked what they would do in the face of a ban on small, cheap handguns. They overwhelmingly responded that they would carry bigger and more expensive handguns instead.

Finally, they were questioned about their possible response to a complete handgun ban. In answer to this question, a majority of the gun criminals—and more than three-quarters of the predators (the truly high-rate felons in the survey)—said that they would respond by carrying sawed-off shoulder weapons.

The general pattern is thus one of lateral or upward substitution: the weapons that gun criminals said they would carry under various hypothetical firearms bans were either just as lethal as, or more lethal than, the weapons they would have otherwise carried. The message these men seem to be sending is that their felonious activities would not suffer for lack of appropriate armament. Their intent, it seems, would be to find substitutes that might be somewhat less convenient, but would be at least as effective as their current weaponry. Given that their response predictions are accurate, the implication of these findings is that many commonly proposed gun control measures could well prove to have unanticipated and counter-productive consequences—at least among the serious adult felons studied here.

Implications for gun policies

Findings from the survey suggest the following:

- Controls imposed at the point of retail sale would not be effective in preventing the acquisition of guns by serious adult felons because these felons rarely obtain their guns through customary retail outlets.

- Since theft of guns is a predominant means by which felons procure firearms, the 35 to 50 million handguns currently possessed by legitimate private owners represent a potentially rich source for criminal handgun acquisition. An effective criminal gun control policy must therefore, of necessity, confront the issue of firearms theft. At a minimum, there should be programs to educate the gun-owning public about the importance of adequately securing their guns.

- Among the most predatory felons, gun ownership and carrying is seen as essential because they fear what the prospects of an unarmed life on the streets would mean for their physical safety and security. For this group of most serious offenders, enhanced sanctioning policies would be unlikely to pose much threat; for them, the cost of being caught unarmed in a dangerous situation would be many times greater than the cost of a few years in prison.

- For less predatory felons, however, sentence enhancement policies do seem to have an important deterrent effect, since a sizeable majority of the felons who do not use guns in crime cite "stiffer penalties" as a very important reason for their decision not to carry firearms.

- Finally, the survey findings suggest that, at least for the serious adult felons included in this sample, certain commonly proposed gun-banning measures could have strongly undesirable consequences, resulting in the substitution of more powerful and more lethal firearms. Gun-banning policies may be responded to differently by other types of offenders, however, and could represent a more effective deterrent to firearms use by juveniles, nonfelony offenders, and other types of criminals.

James D. Wright of the University of Massachusetts was the principal investigator on a study of firearms use in crime, sponsored by the National Institute of Justice and published by the Institute in July 1985. A more complete version has recently been published as *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* by James D. Wright and Peter H. Rossi (Hawthorne, New York: Aldine Publishing Co., 1986).

Mr. HUGHES. Mr. Snyder, welcome. I understand you had some oral surgery. I am sorry.

Mr. SNYDER. Thank you, Mr. Chairman. I had an implant. Hopefully if that works, in another 8 or 9 months I will be able to take a real bite out of gun control laws.

Mr. HUGHES. We look forward to that.

Mr. SNYDER. Thank you very much for the opportunity to testify.

We oppose the bills under consideration for several reasons, and I will try to summarize my statement here.

First of all, a waiting period undercuts the right to self-defense and, therefore, the right to life itself.

If the life of a single innocent person is snuffed out through criminal violence because that innocent was unable to obtain a handgun with which to defend himself or herself against criminal attack as the result of a handgun purchase waiting period requirement, the blood of that innocent person will be on the hands and consciences of the promoters of such waiting period requirement for the rest of their lives.

While it is not known precisely how many times the inability of a law-abiding citizen to obtain a handgun and to obtain one quickly would result in victimization by murder, it is known that, according to a 1978 survey conducted by Cambridge Reports, Inc., for the Center for the Study and Prevention of Handgun Violence, "three percent of the population has actually used a handgun for self-defense." That comes out, roughly, to over six million people. Have the perpetrators of the handgun purchase waiting period requirement even begun to contemplate the millions of lives which, conceivably, could be jeopardized by this proposal?

We also oppose H.R. 975 because we think it could provide a legal basis for incipient, partial, national handgun registration. While the bill does provide for destruction of sworn statements relating to prospective handgun transactions, it does not provide for destruction of the information contained in such statements. Conceivably, then, this information could be retained in local police records and transferred, subsequently, to a national handgun registry. If there is anything America's tens of millions of law-abiding firearms owners as a group most assuredly will oppose, it is national gun registration. It should be clear, therefore, that this bill ultimately, will meet with the opposition, substantially, of 80 million law-abiding American gun owners. When one considers that this is more people than vote for both major party presidential candidates every 4 years, one may begin to get some idea of the massive public opposition with which this bill potentially at least is faced.

In addition, testimony offered last year before the U.S. Senate Judiciary Subcommittee on the Constitution on H.R. 975 and its Senate companion bill, S. 466, by the Maryland State Police underscores further why there is such great opposition to such proposals.

Since 1966, the Maryland State police have enforced a law which requires a 7-day waiting period for record checks on anyone purchasing a handgun from a dealer. In the first 19 years the State police disapproval averaged less than 1.5 percent on an average of over 25,000 purchases a year. The highest prior disapproval rate was three percent in 1967, the lowest .3 percent in 1982.

But when Sergeant R.G. Pepersack, Sr., commander of the Firearms License Section of the Maryland State Police, testified on June 16, 1987, his figures for 1986 showed a radical departure from the norm. Additionally, they showed that the State Police could be wrong up to 85 percent of the time when they disapproved a purchase. Pepersack revealed that in 1986 the State Police initially disapproved 1,102 purchases out of a total of 20,704, a whopping five percent disapproval rate. He indicated that approximately 40 percent of the people who are disapproved requested and attended hearings to which they are entitled by State law. As a result of the hearings, Pepersack admitted, approximately 80 to 85 percent of those first disapproved were finally approved to purchase a handgun.

"In other words", said Weldon H. Clark, Jr., legislative chairman for the Maryland and DC Rifle and Pistol Association and the Associated Gun Clubs of Greater Baltimore, "the police were wrong at least 85 percent of the time."

No one knows how many of the people who did not request hearings because of time and expense factors were also included in the final disapproved figure. But even with a final disapproved figure of 732 for the 1986 year, Maryland State Police rejections had jumped to 3.5 percent, the highest they have been since the waiting period record check law was passed.

While the proposals before this subcommittee, if enacted into law, would undermine the legitimate interests of law-abiding citizens, they would have little, if any, effect in furthering their stated purpose, a reduction in criminal violence perpetrated with the use of handguns.

Since Mr. Knox has previously gone into that argument in some length, I will not go into it at this point, although it is in my prepared remarks. Since I am at the end of my 5-minute period, let me just conclude again by thanking you for inviting me to attend these hearings.

Mr. HUGHES. Thank you.

[The statement of Mr. Snyder follows:]

February 24, 1988

STATEMENT OF
JOHN M. SNYDER
DIRECTOR OF PUBLICATIONS AND PUBLIC AFFAIRS
CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

BEFORE THE
SUBCOMMITTEE ON CRIME

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee:

Let me express my thanks for this opportunity to testify during this public hearing on proposals to mandate a national waiting period before the sale, delivery or transfer of a handgun.

We oppose these for several reasons.

First of all, a waiting period undercuts the right to self-defense and, therefore, the right to life itself.

If the life of a single innocent person is snuffed out through criminal violence because that innocent was unable to obtain a handgun with which to defend himself or herself against criminal attack as the result of a handgun purchase waiting period requirement, the blood of that innocent person will be on the hands and consciences of the promoters of such waiting period requirement for the rest of their lives.

While it is not known precisely how many times the inability of a law-abiding citizen to obtain a handgun and to obtain one quickly would result in victimization by murder, it is known that, according to a 1978 survey conducted by Cambridge Reports, Inc.

for the Center for the Study and Prevention of Handgun Violence, "three percent of the population has actually used a handgun for self-defense". That comes out, roughly, to over six million people. Have the perpetrators of the handgun purchase waiting period requirement even begun to contemplate the millions of lives which, conceivably, could be jeopardized by this proposal?

Have they considered the possibility that this proposal, if enacted into law, conceivably could lead to victimization of the innocent because of their inability to acquire a handgun quickly with which to fend off terrorists? This is not as far-fetched as it might seem to some. According to Sheriff Gary Painter of Midland County, Texas, there currently are at least five Marxist terrorist training camps manned by Columbians, Cubans, Libyans and Mexicans in Mexico, just south of our border. Do handgun purchase waiting period advocates want to be held responsible for death or injury to who knows how many innocent victims because such victims or their parents were unable to obtain a handgun quickly in order to meet a terrorist threat?

We also oppose H.R. 975 because we think it could provide a legal basis for incipient, partial, national handgun registration. While the bill does provide for destruction of sworn statements relating to prospective handgun transactions, it does not provide for destruction of the information contained in such statements. Conceivably, then, this information could be retained in local police records and transferred, subsequently, to a national handgun registry. If there is anything America's tens of millions of law-abiding firearms owners as a group most assuredly will

oppose, it is national gun registration. It should be clear, therefore, that this bill ultimately, will meet with the opposition, substantially, of 80 million law-abiding American citizen gun owners. When one considers that this is more people than vote for both major party presidential candidates every four years, one may begin to get some idea of the massive public opposition with which this bill, potentially, at least, is faced.

In addition, testimony offered last year before the U.S. Senate Judiciary Subcommittee on the Constitution on H.R. 975 and its Senate companion bill, S. 466, by the Maryland State Police underscores further why there is such great opposition to such proposals.

Since 1966, the Maryland state police have enforced a law which requires a seven-day waiting period for record checks on anyone purchasing a handgun from a dealer. In the first 19 years the state police disapproval averaged less than 1.5 percent on an average of over 25,000 purchases a year. The highest prior disapproval rate was 3 percent in 1967, the lowest .3 percent in 1982.

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"In other words", said Weldon H. Clark, Jr., legislative chairman for the Maryland and D.C. Rifle and Pistol Association and the Associated Gun Clubs of Greater Baltimore, "the police were wrong at least 85 percent of the time".

No one knows how many of the people who did not request hearings because of time and expense factors were also included in the final disapproved figure. But even with a final disapproved figure of 732 for the 1986 year, Maryland State Police rejections had jumped to 3.5 percent, the highest they have been since the waiting period-record check law was passed.

While the proposals before this Subcommittee, if enacted into law, would undermine the legitimate interests of law-abiding citizens, they would have little, if any effect in furthering their stated purpose, a reduction in criminal violence perpetrated with the use of handguns.

According to the July, 1985 U.S. Department of Justice research report prepared for the National Institute of Justice on "The Armed Criminal In America, A Survey of Convicted Felons" by James D. Wright and Peter H. Rossi, only 21 percent of felons' handguns are obtained through retail channels. The rest, 79 percent, are obtained from family and friends, various gray and black market sources and a variety of other sources. To maintain

that persons intent on committing crimes of violence would subject themselves to the checks associated with a handgun purchase waiting period requirement is to maintain an incredible position. The bill, in other words, while it might be effective in undermining the legitimate interests of law-abiding citizens, would be ineffective in undermining the nefarious interests of violent criminals.

While proponents of the waiting period concept maintain it would reduce "crimes of passion", the fact of the matter is that most "crimes of passion" occur between the hours of 10 p.m. and 3 a.m., when gun shops aren't open anyway, suggesting that the immediate availability of handguns over the counter really is not a factor in such killings.

The argument that a waiting period will create a delay while it can be determined if the buyer has a criminal record or otherwise is disqualified legally from owning a handgun also is of dubious merit.

The handgun owner licensing provisions under New York State law indicate the futility of waiting periods as crime prevention measures. The State's handgun purchasing process amounts to the most comprehensive of background checks and the longest of waiting periods, commonly one or two years for first time handgun buyers despite State law requiring action within six months. However, New York State has one of the higher crime and illegal gun ownership rates.

That criminals don't abide by waiting period provisions or other firearms-related provisions is evident also from the same

Justice Department study referred to earlier in this testimony. According to it, felons, who, under Federal law are not allowed to acquire or own firearms, were asked how long it would take them, upon release from prison, to obtain the handgun they wanted. According to the report, "nearly 80 percent of the sample said they could get a handgun in a few days or less; among the Predators, the figure rose to about 90 percent. Over half the predators said they could arm themselves in a few hours".

A mandated national handgun purchase waiting period, then, really would not have a positive impact on crime. It might, however, have a negative impact by telling the elderly, city residents, women and others who most frequently are victims of violent crime that they must wait a long time before they can purchase a handgun with which to defend themselves, thus letting them know that now they are going to be even more helpless and supine before the criminal element than they were before the waiting period law.

In fact, a waiting period requirement could be even more burdensome for law-abiding citizens than a licensing requirement. Whereas a licensing system requires only a single check on a potential owner, a waiting period requirement requires approval for each individual purchase. When one considers that tens of millions of law-abiding handgun owners would oppose, adamantly, a national handgun owner licensing law, one can imagine how much more adamantly opposed those tens of millions of voters would be to a national handgun purchase waiting period requirement.

When one considers also that there have been times when agencies, so overloaded with paperwork, have had to suspend firearms forms processing, and that this kind of eventuality could occur under the proposed system, one can see another reason for general opposition to the proposal.

Section 1.(p) (1) (B) of H.R. 975, relating to the issuance of a certificate from the chief law enforcement officer of the place of residence of the transferee to the transferor regarding requisite access to a handgun because of a threat to the life of the transferee, since it contains no clear statement regarding the cause for the issuance of such a certificate, creates the possibility for capricious issuance of such certificates.

This provision could be used by a local racist officer, for instance, to arm all members of one racial group to the detriment of members of another racial group. It is, in other words, a potentially very dangerous provision.

Despite the support these proposals have received from some spokesmen for some organizations of law enforcement officers, the enactment of such a proposal would not necessarily be the boon to law enforcement professional its supporters claim. Just last year, the National Association of Chiefs of Police questioned the Nation's 18,000 chiefs and 3,000 sheriffs regarding the handgun purchase waiting period proposal contained in H.R. 975. Of the six percent who responded to the national survey, 65 percent said the proposal is not needed to help reduce violence in their community and 69 percent said that, under H.R. 975, the chief law enforcement officer might be sued if, at a later date, an

applicant approved by the chief law enforcement officer then used the firearm in the commission of a criminal or violent act.

For these reasons, Mr. Chairman and Members of the Subcommittee, we think that the proposals under consideration should be rejected.

SUMMARY

A mandated national handgun purchase waiting period would undercut the right to self-defense and, therefore, the right to life itself. If the life of a single innocent person is snuffed out through criminal violence because that innocent was unable to obtain a handgun with which to defend himself or herself against criminal attack as the result of such a requirement, the blood of that innocent person will be on the hands and consciences of the promoters of such waiting period for the rest of their lives

We also oppose H.R. 975 because we think it could provide a legal basis for incipient, partial, national handgun registration. While the bill does provide for destruction of sworn statements relating to prospective handgun transactions, it does not provide for destruction of the information contained in such statements. Conceivably, then, this information could be retained in local police records and transferred, subsequently, to a national handgun registry. If there is anything America's tens of millions of law-abiding firearms owners as a group most assuredly will oppose, it is national gun registration. It should be clear, therefore, that this bill, ultimately, will meet with the opposition, substantially, of 80 million law-abiding American citizen gun owners.

Despite the support these proposals have received from some spokesmen for some organizations of law enforcement officers, the enactment of such a proposal would not necessarily be the boon to law enforcement professionals its supporters claim. A survey of the Nation's 18,000 chiefs of police and 3,000 sheriffs completed last year by the National Association of Chiefs of Police confirms this.

Mr. HUGHES. Mr. Pratt, welcome.

Mr. PRATT. Good afternoon, Mr. Chairman.

On behalf of Gun Owners of America, I appreciate this opportunity to come before the subcommittee. We oppose a waiting period on constitutional grounds as an infringement of the right to keep and bear arms. We also think it would be better labeled a permit-to-purchase system. Thus, we have legislation that, in effect, would put the onus on the law-abiding, on those who are not guilty of anything to prove their guilt, and that violates the whole idea of American jurisprudence.

Whatever you may hear to the contrary, evidence that waiting periods or the permit-to-purchase system will effectively reduce crime is simply not readily available. Cities with waiting periods of one kind or another often have worse records of criminal use of firearms than cities without such restrictions on the law-abiding.

We have heard an excellent discussion of exactly why waiting periods are totally irrelevant. In the case of Mr. Hinckley, I think it should be said it is nonsense for those—Mrs. Brady and some of the police representatives—to keep insisting it would have made a difference when quite evidently it wouldn't have made a difference.

In addition, a large number of homicides involve domestic violence. However, domestic disputes do not immediately result in a decision to kill. These unfortunate situations exist over long periods of time, certainly longer than any proposed waiting period.

A Police Foundation study a few years ago of police records in Kansas City discovered 90 percent of the homicides there had been preceded by past disturbances at the same address. It reported the disturbances were serious enough to have the police called in to investigate. The median number of reported previous disturbance calls before a homicide were five per address.

It seems evident that most domestic homicides can hardly be considered isolated outbursts. Rather, they are the culmination of a long pattern of hatred, verbal abuse and domestic violence. The waiting period of 7 to 15 days before a citizen can buy a gun will have no serious effect on domestic homicide.

Our experience with the National Crime Information Center, which would run background checks on the law-abiding, has been dismal because it has taken them 4 months, and they still have to answer the inquiry that we have made to them. From talking informally with some policemen, it seems evident they would not be able to conduct an adequate background check within 60 days.

So cost will be a factor, and the facile promises we heard earlier in the day that one or two policemen in a major police force could handle the increased bureaucracy is not a good argument. It is going to increase the cost to the taxpayer substantially, and all it does is put the burden on the law-abiding without affecting the criminal.

There are examples of people who have lost their lives because of waiting periods. There was a particularly tragic one in New York City a few years ago of a Russian emigre, Mr. Hutorsky, who with a partner had started a furniture business in Brooklyn. They had applied, or the partner had applied for a handgun for the premises of the store. Mr. Hutorsky was killed in a robbery while they were still waiting for that permit. The surviving owner of the store did

not finally get an answer to his request for a permit for another 4 months.

So I think there is something radically wrong when the criminal can get the gun but the law-abiding person can't. That means the law-abiding—with a permit-to-purchase system, when it gets out of control like New York especially—has to volunteer to be a willing victim, and that is really not the idea, it seems to me, that we should have for answering the crime problem.

We have heard some of the police groups speak today, that they represent their members, about how the membership supports their views on various gun control issues, including the one here today. Gun Owners of America recently published—and I would like your permission, Mr. Chairman, to give you a copy of an article "Who Really Speaks for the Police?" This was a little article that was done by the International Union of Police Associations, AFL-CIO, that was written by their chairman, Mr. Kliesmet. He points out if these police organizations we hear from in Washington have a membership, they may have a resolution at some convention, but they don't have a universal canvass, and I don't accept the claims that were made earlier here today as representative of law enforcement.

In fact, the Senate had the benefit of a State representative, Mr. Johnson, from Florida, testifying. When his bill went through the Florida legislature for the benefit of gun owners to permit concealed weapons and for the elimination of certain of the local anti-gun laws in the State, he had the support of all the police organizations in the State. But even after that support had been announced, the national spokesmen who support gun control in Washington mailed press releases into Florida claiming police opposition to Johnson's bill. I think it is pretty obvious that what we hear in this room today from police organizations is simply not representative of the rank and file.

Let me just close by reiterating our position that the waiting permit is better called a permit-to-purchase system, and is an unconstitutional transfer of the burden of guilt to the law-abiding without doing anything at all to hamper criminal activity.

Thank you very much.

Mr. HUGHES. Thank you very much, Mr. Pratt.

[The statement of Mr. Pratt follows; the article was not submitted:]

GUN
OWNERS
OF AMERICA

Testimony of

Lawrence D. Pratt, Executive Director

Gun Owners of America

Presented Before the House Judiciary Committee

Subcommittee on Crime

February 24, 1988

Chairman Hughes, members of the Subcommittee:

I serve as Executive Director of Gun Owners of America, a national organization representing over 100,000 United States citizens who believe very strongly in the Constitutional guarantees of the Bill of Rights. We appreciate the opportunity to testify in opposition to H.R. 155 and H.R. 975 relating to the proposed waiting period for gun purchases and a ban on certain handguns.

We call upon this committee to reject any proposal to set public policy in the area of firearms that violates the Second Amendment, as these two bills would upon enactment.

Waiting periods are nothing more than permits to purchase schemes imposed on the law-abiding citizens of the country. Criminals will not be affected by a waiting period law.

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Whatever you may hear to the contrary, evidence that waiting periods will effectively reduce crime is not readily available. Cities with waiting periods of one kind or another often have worse records of criminal use of firearms than cities without such restrictions on the law-abiding.

A case that is frequently cited in support of a waiting period is the example of John Hinckley, Jr. The tragedy of Hinckley's shooting of the President is part of a good deal of emotional debate and great sympathy. However, the case only shows how irrelevant are waiting periods for dealing with crime.

Hinckley's was a case of extraordinary premeditation over many months. Prior to his attempted assasination of the President, Hinckley was arrested in Nashville, Tennessee as he boarded an airplane with two handguns in his carry-on luggage. These guns had been purchased in California, a state that currently has a 15-day waiting period. Hinckley also bought a .22 caliber revolver at a pawnshop in Dallas using his valid Texas drivers license.

These three guns were all purchased legally. At the time of his attack Hinckley had no history of mental illness on police files. There is also no access to other mental records available to the public or to the police for the purpose of conducting a security

check. Clearly, if there had been a nationally mandated 7-day waiting period when Hinckley was stalking his prey, it would have had no effect whatsoever on Hinckley's outrageous assault.

And Mrs. Sarah Brady's oft repeated assertions that a waiting period would have spared her husband the tragedy that beset him is nonsense.

In addition, a large number of homicides involve domestic violence. However, domestic disputes do not immediately result in a decision to kill. These unfortunate situations exist over long periods of time, certainly longer than any proposed waiting period.

A Police Foundation study of police records in Kansas City discovered that "90 percent of the homicides had been preceded by past disturbances at the same address..." The study reported that the disturbances were serious enough to have the police called in to investigate. The median number of reported previous disturbance calls was <u>five per address</u>.

It seems evident that most domestic homicides can hardly be considered isolated outbursts. Rather, they are the culmination of a long pattern of hatred, interpersonal abuse and domestic violence. A waiting period of seven or fifteen days before a citizen can buy a gun will have no serious effect on domestic

homicide.

There is the issue of cost, although that may not be viewed as a serious matter for concern in a Congress where the federal debt has soared to $2 trillion. Nevertheless, it should be pointed out that especially the waiting period scheme in H.R. 155 would impose an immense nationwide drain on police resources.

It is certain that with present funding levels, the National Crime Information Center will never be able to process background checks within 60 days, let alone the 15 days provided for in H.R. 155. Gun Owners of America has been waiting for four months on an inquiry about the cost and average time for running a background check.

More money, more bureaucracy, and greater violations of privacy will not make America's streets safe from violent crime. As always, the law-abiding American taxpayer will be the one who has to bankroll this increased government interference.

Criminals will ignore the waiting period just as they currently ignore existing gun laws and the other laws they decide to break. Criminals are no more in the habit of purchasing guns from legitimate sources than dope addicts are accustomed to dropping by the local drug store with a prescription for cocaine.

The National Institute of Justice (NIJ) published in 1985 the results of a survey of over 1800 incarcerated felons entitled The Armed Criminal in America. Eighty-two percent of the felons believed that gun control laws affect only the law-abiding; any criminal "who wants a handgun is going to get one, no matter how much it costs."

Virtually ninety percent of the felons surveyed indicated that they did not buy their guns in ways that would be affected by a waiting period. They acquired a "handgun specifically for use in crime, heavily exploited informal, off-the-record means and sources and rarely went through customary retail channels."

The NIJ study further reported that criminals obtained their illicit firearms quickly, with 90 percent answering "almost immediately." The rest said it would only take a few days.

There is no way to escape the conclusion that waiting periods are permit-to-purchase schemes that are aimed exclusively at the law-abiding. The violent criminal who uses a gun for a criminal act gets better treatment than the law-abiding. The criminal is presumed innocent of any crime until proven guilty. The law-abiding will be required to prove their innocence before they are given permission to exercise a constitutionally protected freedom.

New York City typifies the sad consequences of the extent to which the bureaucratic approach to law enforcement inherent in waiting periods threatens the public safety. In New York City, the waiting period is operated in such a way that the law-abiding have been told, as a practical matter, to be compliant potential murder victims. The legislation proposed by Congressman Feighan is a first step in taking the whole nation toward the peril in which New Yorkers are forced by their city and state governments to live .

For example, in 1983, Igor Hutorsky was a co-owner of a furniture store in Brooklyn. Mr. Hutorsky had managed to emigrate to the U.S. three years before in order to escape the tyranny of the Soviet Union. One night two thugs entered his store and demanded all his money. He complied with their demand. Apparently unsatisfied with his sacrifice they shot him and left him to die.

He died two hours later on an operating table. However, this tragedy is compounded by the fact that his partner, Aron Arommelmood, had applied for permission to keep a handgun in the store some time before the fatal shooting. Even four months after the murder, Mr. Arommelmood had still not heard from the police about his request to purchase a handgun for protection. This is where the proponents of waiting periods meet a harsh reality. Not surprisingly, the proponents do not discuss this.

Some of the representatives of police groups have spoken out in favor of waiting periods. The fact is, they do not know what their members think because, if they have members at all, they never canvass them. The only two exceptions are the International Union of Police Associations, AFL-CIO and the American Federation of Police.

It is interesting that you do not hear them in support of waiting periods. Their approach has always been to oppose gun control legislation because their members oppose it. They agree with Gun Owners of America that law enforcement needs to deal with effective punishment of criminal acts, not people control schemes that diminish the freedom of a disarmed law-abiding citizenry and reduce them to waiting to be the unwilling victims of an armed criminal element.

Neither bill prevents any of the police agencies that would be involved in running the background checks from making a record of the firearms purchasers whose names are run through the system. It matters little that H.R. 975 requires destruction in 60 days of the copy of the form that was sent through the system. The police could simply use the 60 days to enter the information from the copy onto a computer.

Without a doubt, H.R. 155 and H.R. 975 allow for a national registration of gun owners. H.R. 975 even will provide the data

for registering their guns, too -- a description of the handgun and its serial number will have to accompany the name and address of the gun owner.

H.R. 975 has two other provisions that are unconstitutional and unnecessary -- a ban on certain handguns and suppressors.

The bill has incredibly vague language giving the Secretary of the Treasury immense powers to ban countless firearms that are not "readily detectable as a firearm by the standard security equipment commonly used at airports". Since all commercially manufactured firearms are detectable by the equipment used at the nation's airports, what is the point? The point is, the Secretary of the Treasury could adjust the equipment so that scores of guns could pass through undetected, which is a problem right now in the nation's airports. But it is a problem because the equipment is not used properly, not because the guns are undetectable.

Vice President Bush held up a small handgun during a debate in New Hampshire earlier this month. He claimed that the gun was undetectable. That was simply not true. A reporter for the Manchester Union Leader proved that an even smaller gun was detectable with detection equipment in use in New Hampshire.

There will not likely be a plastic gun for over a decade. There is no detectability problem. There is a security problem in

those airports where the equipment is not properly used by often poorly-paid and poorly-trained personnel.

There is no reason why suppressors should be banned. There is no problem. Licensed suppressors simply do not get used in crimes. It is already illegal, and bears a heavy penalty of 10 years and/or $10,000 to possess an unlicensed suppressor. No further legislation is needed. In addition, the language of the ban used in H.R. 155 is so broad that toilet paper tubes and bandage tape would have to be banned also.

These bills are not needed and will be counterproductive; they will actually reduce public safety rather than increase it if they are passed. Blame should not be shifted to the law-abiding as a way of dealing with criminals. It makes no sense and cannot succeed.

GUN OWNERS OF AMERICA

FOR IMMEDIATE RELEASE

Contact: Craig Markva

GOA Opposes H.R. 155 and H.R. 975

February 26, 1988

Gun Owners of America testified today before the House Judiciary Subcommittee on Crime against bills that would establish a federal waiting period to purchase handguns.

GOA's executive director, Larry Pratt, testified that: "Waiting periods are nothing more than a permit to purchase schemes imposed on the law-abiding citizens of the country. Criminals will not be affected by a waiting period. A recent Justice Department survey of incarcerated felons has shown that felons get their guns in ways that will be totally unaffected by a waiting period.

"Contrary to what some of the police spokesmen say, the rank and file police officer does not support gun control. He does not want to be converted into a bureaucrat hassling the law-abiding in his community; rather, he wants to be able to take hardened criminals off the streets.

"H.R. 975 would also ban a host of small handguns. The problem is not with small firearms. The problem is a security problem that can be resolved by the proper use of existing detection equipment. Banning poor procedures rather than banning firearms is the preferred policy."

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Mr. HUGHES. I have heard a number of concerns today expressed about a number of provisions in the bill, such as the fact there is no assurance that after a period of time the records will, in fact, be destroyed, that they won't be put on some automated data base is one of the concerns I think expressed by you, Mr. Knox, and at least one other. There is some concern about the burden on law enforcement, concern as to whether or not it is going to be effective.

Let me ask each of you a question briefly. Would you support any waiting period at all, Mr. Pratt?

Mr. PRATT. No, sir, for the reasons I have stated.

Mr. HUGHES. Mr. Snyder.

Mr. SNYDER. No, I would not.

Mr. HUGHES. Can you conceive of any circumstance you would support a waiting period?

Mr. KNOX. No.

Mr. HUGHES. How about you, Mr. Baker?

Mr. BAKER. Neither can I, Mr. Chairman.

Mr. HUGHES. The second thing is: Do you think it is a good idea for us to find out who we are selling guns to, whether they are people with criminal records or mental histories?

Mr. KNOX. I think the record shows you are only fooling yourself if you think you are finding out——

Mr. HUGHES. That wasn't my question. Try to answer my question.

Do you think it is important for us to try to ascertain whether the applicant for a handgun is a convicted felon or a nut? Mr. Baker.

Mr. BAKER. Mr. Chairman, my response to that would be not at the expense of those who are law-abiding being delayed in——

Mr. HUGHES. So your answer is we should not try to find out if we are selling guns to criminals or nuts?

Mr. BAKER. If the purpose of this hearing is to discuss the legislation in front of us, my answer on balance would be no, the law-abiding citizen would be delayed while the criminal would not be.

Mr. HUGHES. Mr. Knox, do you think we should find out if we are selling guns to criminal or nuts?

Mr. KNOX. I don't think you will.

Mr. HUGHES. That wasn't my question. My question was—listen to my question now. You are very bright, you understand what I am saying. My question is: Do you think we should be trying to find out whether we are selling handguns to criminal or nuts?

Mr. KNOX. My answer, Mr. Chairman, is I think we should be trying to do things to prevent criminals and nuts from committing offenses, and that is not happening. I don't think——

Mr. HUGHES. That wasn't my question. My question was: Do you think we should try to find out if the applicant for a handgun is a criminal or has a mental history?

Mr. KNOX. I don't think that you should, because to do that requires going into areas that shouldn't be.

Mr. HUGHES. Your answer is we should not.

Mr. Snyder, do you think we should try to find out if we are selling hand guns to criminals or people having mental histories?

Mr. SNYDER. When you say we, what do you mean?

Mr. HUGHES. I am talking about the government. We are an ordered society, we have a government of laws. I am talking about the government, the people that have to maintain order. That is usually the law enforcement community.

Mr. SNYDER. You would mean your successors too.

Mr. HUGHES. Yes. Others realize we are mortal——

Mr. SNYDER. You don't know what your successors will be like and how they would put such a law to use.

Mr. HUGHES. That is not my question. My question, Mr. Snyder, and let me repeat it again——

Mr. SNYDER. I understand your question. I don't think you understand what the implications of your question are. That is my point.

Mr. HUGHES. Do you understand my question?

Mr. SNYDER. I understand your question, but I don't think you understand what may be implied——

Mr. HUGHES. Let's assume I understand the implications of it. What is your answer?

Mr. SNYDER. My answer would be no. Because you do not understand——

Mr. HUGHES. That is all I am trying to find out.

Mr. Pratt, do you think we ought to be ascertaining if the applicant for a handgun is a criminal or a person with a mental history?

Mr. PRATT. Mr. Chairman, I have been listening to the discussion about this question. I guess, if I might, I would like to ask a question of you to——

Mr. HUGHES. No, no, just answer the question. I am here to ask you questions.

Mr. PRATT. If we are going to violate the Fourth Amendment——

Mr. HUGHES. Do you find that difficult to answer, or difficult to understand?

Mr. PRATT. I would not want to subject law-abiding citizens to violation of their rights.

Mr. HUGHES. Would you answer the question, or do you prefer not to?

Mr. PRATT. I will answer the question. Please do not interrupt.

Mr. HUGHES. Yes or no? Mr. Pratt, I am running the hearing. You know, you are here as a witness. Mr. Pratt——

Mr. PRATT. I would like to give you——

Mr. HUGHES. Mr. Pratt, can you answer the question yes or no?

Mr. PRATT. I will, as soon as I have put a little preface to what I want to say, I will give you a yes or no answer.

Mr. HUGHES. Mr. Pratt, the answer must be no. Because if you had an answer, and it was yes, you would be telling us under what circumstances.

Mr. PRATT. If I thought we wanted the police to prevent crime in view of the court rulings that have said that is not their function, you cannot even sue them when they don't protect you in a timely or reasonable fashion, then I would say the answer to your question is "yes" and the answer might at least have some kind of sense behind it.

Mr. HUGHES. Mr. Pratt, are you suggesting the police don't want to prevent crime?

Mr. PRATT. It is impossible for them to do so. That is why we have a right to keep and bear arms.

Mr. HUGHES. Mr. Pratt, police every day of every year prevent crime. If you are suggesting that the police in this country aren't interested in keeping handguns out of criminals and crazies——

Mr. PRATT. In Miami, they can't answer a third of the requests that come in on the telephone.

Mr. HUGHES. You are talking about a problem that exists in parts of the country, and police are having a very difficult time.

Mr. PRATT. Houston, Texas takes 30 minutes to answer an inquiry if the 911 number wasn't busy.

Mr. HUGHES. Have you conditioned your answer now? Can you give me an answer?

Mr. PRATT. For all those reasons, I say no, we shouldn't put the burden where it doesn't belong.

Mr. HUGHES. The gentleman from Florida.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

I would like to rephrase that question with Mr. Baker to start with. It seems to me at the beginning of this hearing I made an opening statement that referred to the prospect that some day we might have the technology that will allow a check, when someone goes in to buy a gun, by the gun dealer on the criminal felony background, much like we check on Visa cards where you put it in there and you get an instant result, nobody's time is delayed more than a couple minutes.

If that day ever gets here, we have the technology that would allow that to happen, would you have any problem with that kind of check?

Mr. BAKER. If that day ever gets here, I think it would be an interesting idea and one that on initial blush is of interest to me. Our organization has not taken a stand on it since that technology is not here as we speak right now. I understand what you are asking. I think if you could do an instantaneous ID check with no resultant hard copy report that could be used to accomplish a national registration system, that might very well have some merit to it, yes, sir.

Mr. MCCOLLUM. In this case, all I am talking about is to find out if the person who comes in already has a criminal record, not to find any record, not to give any if's, and's or but's.

I want to be a purist for a minute in case we could do that some day. It is humanly possible, we think, to do it with immigration. We were worrying about that sort of thing with the ID check question with regard to some of the laws we passed. We don't have the technology yet. It might well get there one of these days.

Mr. BAKER. If we have an adequate data base in terms of criminal dispositions and the NCIC is working at perhaps a better rate than it is in terms of actual criminal dispositions of guilty or not guilty, that might hold some promise, yes, sir.

Mr. KNOX. Mr. McCollum, I think because Mr. Mazzoli has done so much work in immigration law and looking at this problem, he is very familiar with the outcry that occurs with the thought of a national ID card.

Now, the people at large don't want to have a national ID card where in the corner you could have an "X" for felon, which would disqualify anyone presenting that from getting a gun. Now, our

concern is when you are talking about a gun license that we feel it shouldn't be just an ID card law for gun owners. See, we have the same problem——

Mr. McCollum. I am not looking at an ID card.

Mr. Knox. I understand, I think you have a very good point. I have given this some consideration in the past. It is my belief that there would be no objection to the person who has to at the present time submit his name and address on a driver's license, there would be no objection whatsoever for that to be punched into a data base and checked to see whether or not that person is a criminal.

But I think, Mr. McCollum, that those who advocate these laws most fervently would object strenuously to such a suggestion because that would brand these victims of society that keep preying upon the rest of us.

Mr. McCollum. I just want to clarify, and I think you both have, I imagine the other two gentlemen—I have another question—would probably agree in general with the answers you just gave.

In a recent National Institute of Justice research brief that was done this past November, well, a year ago now, by James Wright, I think an interesting conclusion is stated here. I would like to bring it to your attention and ask you if you are aware of it.

"Based on interviews with more than 1,800 incarcerated felons, the study found few of the gun-owning felons had bought their guns from a retail source. Rather, the majority usually obtained them from family members or friends on the street, often they stole them."

The bottom line conclusion of this National Institute of Justice study says, "Controls imposed at the point of retail sale would not be effective in permitting the acquisition of guns by serious adult felons because these felons rarely obtain their guns through customary retail outlets."

I know we have often argued that point. I was wondering whether you are aware that the National Institute published this? Are you aware of that?

Mr. Knox. I attached that to my testimony, and I hope it will be made part of the record.

I also distributed 75 or 100 copies today so others will become aware of it.

Mr. McCollum. I figured you were aware of it. I wanted to be sure it got in the record in a forceful way.

Mr. Baker, in your testimony you indicated, as Senator McClure testified on the Floor of the Senate last year, even if we enacted this provision into law, there would be nothing compulsory about any of the individual States or the law enforcement officials actually doing a check.

I would surmise in many cases they might not, so the net result of some odd States that don't have these kinds of laws today is we have a Federal law mandating a waiting period that might provide a super long cooling-off period but wouldn't guarantee any felony check whatsoever.

Do you see that as a likely prospect?

Mr. Baker. I think that is more than likely, Congressman. Many States—as my testimony indicates in more detail, as I was able to

outline in front of you today—have specifically rejected the idea of a waiting period and/or cooling-off period. Your own State was an example. And I think that what you would end up doing would be simply imposing a 7-day cooling-off period on the majority of States, yes, sir.

Mr. McCollum. I think my time has run out. I would like to ask more questions, but I don't think it is appropriate. I will yield back my time. I thank the gentleman.

Mr. Hughes. The gentleman from Ohio.

Mr. Feighan. Thank you, Mr. Chairman.

Mr. Baker, perhaps you already answered this question when the chairman asked if you could contemplate any circumstances under which you would support a waiting period. But would your organization support any background checks on the purchase of machine guns?

Mr. Baker. Currently Federal law requires fingerprinting, extensive police background check and law enforcement sign-off by local law enforcement. That law has been in effect since 1934. But it has not served to prevent machine gun crime with unregistered machine guns.

Basically, the system doesn't work for machine guns either.

Mr. Feighan. Would you say, then, that the effect of the law on machine guns is to create a waiting period?

Mr. Baker. Absolutely. Whether that was the specific intent or not, it in fact does so.

Mr. Feighan. Do you support those restrictions?

Mr. Baker. Regarding support for those restrictions, they have been—they are, in fact, Federal law, and we support Federal law. I don't think they work because machine gun crime continues to occur.

Mr. Feighan. But you support those restrictions?

Mr. Baker. Do I support restrictions on a 1934 law on machine guns? No, I don't.

Mr. Feighan. Do you support any restrictions on machine guns?

Mr. Baker. The same restrictions that are currently required by Federal law on any firearms, I think. That is my personal opinion. I don't know whether—the National Rifle Association doesn't have a board resolution on it. I will tell you registered machine guns are not used in crime and haven't been for 50 years, and that is not the NRA saying that, that is the Treasury Department.

Mr. Feighan. I am unclear then. You're saying that you do support restrictions on the purchase of machine guns?

Mr. Baker. I am saying restrictions exist. We support complying with Federal law.

Mr. Feighan. I am aware they exist. I am asking you do you support restrictions?

Mr. Baker. It is not a question of support, because those laws exist. Do we oppose the current regulations——

Mr. Feighan. If I might say, there are also waiting period laws you don't support.

Mr. Baker. We oppose those.

Mr. Feighan. But you support the Federal restrictions?

Mr. Baker. No, I am saying those laws exist, we acknowledge their existence. There are some we don't support, that is correct.

Mr. FEIGHAN. Do you support then background checks?

Mr. BAKER. No, sir, we do not. We do not think they result in any impact on crime as is evidenced by the machine gun registration system. Those people that are law-abiding and have registered them have never committed a crime with them, and yet machine gun crime continues to go on. How? Because criminals evade the system.

Mr. FEIGHAN. Mr. Knox, let me ask you similarly, do you support restrictions on the purchase of machine guns?

Mr. KNOX. Anyone advocating a restriction upon an individual American citizen should be able to present evidence that whatever he has to go through is justified. There is no justification for that, and I oppose that.

Mr. FEIGHAN. Is there any justification in your mind for any restrictions on the purchase of machine guns?

Mr. KNOX. Well, I happen to be a court-qualified firearms expert. I see no difference between a machine gun, a shot gun, handgun or whatever. There is no gun—a gun is a gun. And I oppose restrictions which serve no purpose except to limit the rights of law-abiding citizens. I advocate doing all types of serious—requiring all types, any effective type of punishment for those persons who commit crimes of violence, something that someone on the other side doesn't. And I feel that this thing of putting the burden upon me is wrong when I see that the criminal obtains a gun, and why should I go through that when he obviously does not and will not?

Mr. FEIGHAN. Mr. Baker makes the point that machine guns have not been used in crime.

Mr. KNOX. Legal machine guns haven't been used in crime.

Mr. FEIGHAN. Would you say that is the result of effective Federal regulation?

Mr. KNOX. No. It only proves the validity of our point. If the law were effective, you would see there would not be the crimes of violence committed in Miami and in DC, with full automatic weapons.

By the way, Mr. Feighan, I believe you mentioned earlier today that it was the position of the National Rifle Association in the early 1970's to support a waiting period bill. Now, I happen to have led a revolt of the membership against the leadership of the NRA in 1977 that overturned those leaders and overturned that policy.

Mr. FEIGHAN. Well, that is very impressive! [Laughter.]

Mr. KNOX. I want you to know we do not support that.

Mr. FEIGHAN. Mr. Pratt, let me ask you—you raised an issue other members of the panel have spoken to. I think you give us the example of a New York case of an individual who had applied for purchase of a gun and was waiting for the background check period, the waiting period, to expire and in the intervening time was held up and was killed.

One of the other panelists had suggested instances like that should weigh on the conscience of individuals supporting and trying to enact waiting periods. You are aware, I am sure, that the legislation before us provides an exemption—or a waiver—for the immediate purchase of a handgun when an individual feels an immediate threat, are you not?

Mr. PRATT. That is not something that is going to make a significant difference, because that is something that obviously the au-

thorities are going to be in a position to determine, and they have a notorious record for not viewing anybody's excuse as a valid excuse to own a firearm.

Mr. FEIGHAN. Who are you challenging? I am not sure. Are you saying local law enforcement officers are not capable of making those decisions?

Mr. PRATT. Or the judges that are often in charge of it, or whatever bureaucracy ends up being in charge of it. Those systems don't work. It is a perversion of the police process to ask the policemen to become bureaucrats trying to prevent crimes, which is not their function, and which is not possible for them to do. They are supposed to be out there apprehending criminals who have committed crimes, and hopefully with your support, punishing them severely when they do capture them.

Mr. FEIGHAN. Let me ask you this question with a little different scenario and ask you in whose conscience, if at all, this circumstance should lie. A young man by the name of Kent Allen Malcom a year ago in Cleveland walked into a gun store, falsified an application when in fact he had had a record of mental incompetence and a long felony record involving illegal gun use, then walked out immediately, purchased the hand gun, walked down to the Cleveland Public Library and walked into the reading room and opened fire, leaving several people wounded and killing two young women.

Could that have been prevented by a waiting period, Mr. Pratt?

Mr. PRATT. I don't think so. I don't think so. Someone like that could just as easily wait to commit his crime. Actually, there may have been people in that waiting room who, had the gun laws in Cleveland not been so obnoxious, might have been able to carry a firearm and there wouldn't have been the same kind of carnage. We are supposed to be willing victims for whatever criminal is able to get a gun while we abide by the law and say we are not allowed to have guns. That is outrageous.

Mr. FEIGHAN. What I find outrageous is the view those incidents—that is an example I think is very much on point—you say it doesn't happen with regularity. You may argue it is more burdensome in the other vein, those denied immediate access——

Mr. PRATT. There is well over a half million people a year who foil a crime because they have a firearm on them. That far outweighs what someone did within a theoretical 7-day cooling-off period that may or may not have made the difference anyway.

Mr. FEIGHAN. Let me ask one concluding question of you, and that is on the issue Mr. Knox raised in his valiant efforts apparently to clean house over at the NRA. Wouldn't the NRA's position on this carry a lot more credibility—it certainly would with me—had not the NRA itself only a few years ago held the position—this is not my language—I certainly would like——

Mr. BAKER. I would like to respond to it.

Mr. FEIGHAN. Let me finish the question. The circumstances are too good not to repeat. The language in the NRA's own policy document stated, "that a waiting period would be effective in reducing crimes of passion and preventing people with criminal records or dangerous mental records from acquiring guns."

Mr. BAKER. The answer to that is before we had a lot of criminological evidence and feedback from those States that do have wait-

ing periods. Our membership and our leadership are kind of like Congressmen, they are elected on an annual and biannual basis and come and go and that leadership is now gone.

Mr. FEIGHAN. Thank you very much.

Mr. HUGHES. Gentleman from Florida, Mr. Shaw.

Mr. SHAW. No questions.

Mr. HUGHES. The gentleman from Florida, Mr. Smith.

Mr. LAWRENCE SMITH. Thank you, Mr. Chairman. I hope we continue to have these hearings. It is always a revelation to hear the fanciful ways that the gentlemen at the table in front of us who have testified before can devise the reality of the most experienced mind set. I dance away from positions held a few years ago into the absolute opposite positions a few years later because you have statistical data.

Every police officer that has ever testified before this subcommittee refuses over and over and over and what you are asking us to do, I would assume is to believe your statistics and not the statistics collected by most of the police agencies in this State. That is correct.

Mr. BAKER. We will provide them for you and open them up to your independent verification.

Mr. LAWRENCE SMITH. When we last made an unfortunate effort to bring some more sanity to the gun laws in this country, we unfortunately had a problem, and that was with the NRA, which ultimately was capable of changing some of the laws that already existed on the books. Of course, that is the process and we wouldn't misunderstand that. We did, however, pass an amendment with reference to machine guns which you objected to, and obviously still object to.

Mr. BAKER. Yes, sir.

Mr. LAWRENCE SMITH. I understand that you are attempting to shop around, if you haven't already found someone to introduce an amendment to do away with any regulations.

Mr. BAKER. No, sir.

Mr. LAWRENCE SMITH. You are not?

Mr. BAKER. I don't think the American public or U.S. Congress understands the issue well enough for it to make any sense for us to push a legislative repeal of that right now. You should know that you have doubled the size of the available pool of machine guns by passing that amendment.

Mr. LAWRENCE SMITH. How?

Mr. BAKER. You put a freeze on legal machine guns, there could be no newly manufactured ones put into the system. That law did not go into effect until May 19th, 1986. It took 50 years of law to register 120,000 machine guns. Within that 2-month window, they registered another 80,000, so you succeeded in doubling the number of available machine guns.

Mr. LAWRENCE SMITH. In other words, if we had made it available immediately, that would have disallowed anybody from manufacturing, so that—wait 1 minute. Hold on a second. That is something you like, I would assume.

Mr. BAKER. No, I am saying——

Mr. LAWRENCE SMITH. Excuse me.

Mr. BAKER. You said that is something I would like, I would assume. That was an unintended result of your amendment. That is the point I was trying to make.

Mr. LAWRENCE SMITH. I see. How many of these machine guns have been sold?

Mr. BAKER. I have no idea. They are all registered.

Mr. LAWRENCE SMITH. To whom?

Mr. BAKER. In the books of ATF. Ask them. That is a tax matter we are not privy to.

Mr. LAWRENCE SMITH. How come you know the statistics of everything else, but you don't know the statistics about this?

Mr. BAKER. I have been told by the ATF that the individual owners of those 80,000 machine guns, is a tax matter and because of the Privacy Act laws, that is not available for individual citizens. There is a transfer tax on each one of those firearms and, therefore, those records are not available.

Mr. LAWRENCE SMITH. You haven't asked for them under the Freedom of Information Act.

Mr. BAKER. No. That is a Privacy Act question. They are not available under the Freedom of Information Act. The law says they are not available.

Mr. LAWRENCE SMITH. They tell you it is not, but you haven't tried.

Mr. BAKER. There is a Federal law that says they are not available, Congressman. I can't go in and get your income tax.

Mr. LAWRENCE SMITH. In any event, the gentleman made an interesting statement with reference to machine guns that a gun is a gun is a gun, and I find that rather interesting. I don't know if you have ever been a police officer, but I would hesitate to think of a situation more fraught with peril for a police officer than if he was attempting to discharge his duty and face a criminal with a handgun.

It would be one issue, but on the other hand, if he was going to attempt to face a criminal with a machine gun, it might be another issue. Wouldn't you say that would be a more dangerous situation from a police officer, one he would rather not be in?

Mr. KNOX. The most dangerous situation, typical combat situation would be if he were armed with a shotgun, the criminal armed with a shotgun. That is the most dangerous situation.

Mr. LAWRENCE SMITH. That is not what I asked you: I asked if it would be more dangerous for a policeman to face a criminal of some type with a handgun or with a machine gun.

Mr. KNOX. It would depend absolutely on the situation and how well he can use it. I know some of these guys. I would prefer that he had a handgun or a machine gun because he didn't know how to use the above, whichever it was.

Mr. LAWRENCE SMITH. So, now you are going to subscribe to the theory advanced this morning that most of these felons are not smart enough. They walk around with machine guns they don't know how to use. You are going to avoid the answer no matter what. Would you rather be in a situation where you are armed with a handgun, face somebody who comes into a shop you own with a handgun or with a machine gun? And you know—let's put

it in personal terms. Would you rather be staring down the barrel of an Uzi or a Saturday Night Special or a six-shooter?

Mr. KNOX. I would sooner be staring down the barrel of a machine gun than a shotgun.

Mr. LAWRENCE SMITH. I don't know how you can waltz without playing any music here.

Mr. KNOX. I would prefer yet to be staring down the barrel of a handgun. It is a relative—we are talking about issues that have nothing to do with the legislation in front of us, Mr. Smith, but that is my opinion.

Mr. LAWRENCE SMITH. Mr. Chairman, apparently my time is up. I want to thank you. Once again you have confirmed my faith in human nature. I wasn't expecting any more from you than you gave, and it is nice to know that some things remain constant.

I am really disappointed. I think in this Congress there is an attitude to reflect a significant ground swell of support in this country for some form of restrictions on the availability of handguns only as it goes to the time that can be taken to get one from instantaneous transactions to a smaller period of time during which some police agency will have some capability to check the background of people. And the Colonel sat there and gave us statistics and data about a typical case in the State of New Jersey.

Now, I don't know how long you can continue to stand in the way of what most Americans want. I hope it isn't too long. I also hope for your sake that ultimately we can bring some sanity to the gun laws, because it seems to me the best way to protect the rights of the gun owners in this country is to have a legitimate balance between their rights and everyone else's.

Mr. HUGHES. Your time has expired.

Mr. LAWRENCE SMITH. The more you decrease the gun owners—some day there is going to be a significant shift in this country, and there will be an assault even on to the constitutional grounds. We would all like to avoid that.

Mr. HUGHES. The gentleman would like to respond to that.

Mr. KNOX. Thank you, Mr. Chairman. I think that the Congressman Smith and I have a fundamental difference of what is sanity.

Mr. HUGHES. I got that impression.

Mr. KNOX. Pardon?

Mr. HUGHES. I got that impression.

Mr. KNOX. I think that Mr. Smith was not listening when I made the point that is made here, that in the event you are successful in keeping handguns out of the hands of criminals, that 72 percent of the predatory handgun criminals will substitute sawed-off rifles or shotguns and if they do so, there will be more people killed.

The problem is not the type of weapon they have or don't have. The fact is that they are using those weapons, and that is the problem that must be addressed.

Mr. LAWRENCE SMITH. Mr. Chairman——

Mr. HUGHES. We will have another round.

The gentleman from Pennsylvania.

Mr. GEKAS. I arrived late and did not hear the testimony, but I would like to state, first, that in my area there have been some radio ads and pictorial ads in the newspapers in which the Hinckley matter is posed as the example they would like to see avoided

by the passage of this legislation, saying in effect that this legislation would have prevented this scenario by which John Hinckley was able to secure a weapon.

Your statement, Mr. Baker, refutes that contention.

Mr. BAKER. Yes, sir.

Mr. GEKAS. Did you cover that?

Mr. BAKER. Yes, sir. The bottom line, is that Mr. Hinckley had no felony record and he had never been adjudicated as a mental incompetent. He presented what was valid I.D. and he had not been convicted of any crime, other than possibly a misdemeanor which didn't disqualify him for the purchase of a handgun.

His handgun purchase and rifle purchase some 6 months prior to the assassination attempts were perfectly legal, obviously tragic, but I point out that no waiting period law or any law has mind-reading capabilities.

Mr. GEKAS. No further questions.

Mr. HUGHES. The gentleman from Kentucky.

Mr. MAZZOLI. Thank you, Mr. Chairman. I guess I am a little perplexed about a couple of things. One is about the concerns that are raised about the legitimacy of the police representatives that their people support these bills or something like them, and I think that each of you or some of you cause some questions to be raised about the validity of those examples.

At times when I have had a chance to talk to officers on the line, they have always told me that anything that could be reasonably done to keep guns out of the hands of the wrong people, they would like to have done. After all, their carcass is on the line.

Can you tell me, again, that you have actually, yourselves, talked to some of the officers and that you can say that basically speaking that their leader is misrepresenting the situation?

Mr. BAKER. Congressman, the two operative words you used were reasonably done, and I don't think that—we obviously support laws that would be—you could construe it as reasonably able to keep guns out of the wrong hands, but in this case and the case of H.R. 975, the criminal records that are available based on a name check only, without fingerprint backup——

Mr. MAZZOLI. If I can back you up, I am not sure in my conversations with police we really got this intricate about it. In other words, that is what I am saying. In other words, can you say, then, that the policies have been conducted by yourself or your organizations, where you might go into the details about what is reasonable or an unreasonable act, whether they support the reasonable or unreasonable?

Mr. BAKER. I don't think this issue has been explained to enough police officers, law enforcement officers, to get a valid policy.

Mr. MAZZOLI. It is wrong for you to say that the police——

Mr. BAKER. I didn't say that.

Mr. MAZZOLI. Some indicated that. It is wrong to say that the police representatives are misrepresenting the fact as the policemen on the beat, if you want to call it that, because they don't.

Mr. BAKER. I think there is a split.

Mr. MAZZOLI. They don't see all the intricacies, all the constitutional problems, all the data that you might have before you. They simply say, "Look, I am going to be blown away by a guy and I

don't like to see that happen. If we can keep that gun out of his hand, then I am not blown away. My family is intact."

Mr. BAKER. We are in favor of keeping that from happening. How do you go about doing that?

Mr. MAZZOLI. I am trying to perceive how you say that in effect the policemen of America are being misrepresented.

Mr. PRATT. Mr. Mazzoli, I would like to address that. I did address that point. The publication that we have is actually a reprint of an article that appeared in a union publication of the International Union of Police Associations, written by their chairman, and it was his statement that those other organizations, with a few exceptions, do not survey universally their members.

We have surveyed large numbers. I can't say that we have surveyed the exhaustive universe of police officers, but we have found that, for instance, police officers will respond, that they believe that private citizens not only should keep and carry firearms, private firearms, but they think that actually makes their job easier.

Mr. MAZZOLI. Out of curiosity, how would that be the case? What rationale makes it easier for them?

Mr. PRATT. Many of the policemen killed are killed with their pistol in their holster. They never drew it. They were surprised.

Mr. MAZZOLI. If the other guy has a gun, he won't try to still mine.

Mr. PRATT. When a victim is confronted with a crime, the element of surprise is usually not as great and he has a greater opportunity. He can actually help the policeman or so can the armed citizenry and the policeman can perceive that. But there shouldn't be this kind of war by the leadership or spokesman of these policeman. This is very important.

We heard a lot of opposition to Mr. McClure and Volkmer's bill from the head of the Fraternal Order of Police. Then he went over and became a paid lobbyist for Handgun Control, Incorporated. I think that makes the point that some of these fellows are speaking for another agenda that doesn't have anything to do with representing their rank and file.

Mr. MAZZOLI. Maybe things at home are difficult, but I really have a hard time thinking that you get very far standing in front of a group of policemen saying they are safer if everybody has a gun.

I mean, to me, with respect to you, that seems like an extremely tenuous argument. I think that a person shot at, or one who hasn't been, would find it laughable. It just seems so illogical——

Mr. PRATT. The police would not want a disarmed citizenry. That is a fact.

Mr. MAZZOLI. This IUPA organization, I am not sure whether that is the same kind as this on the police chief's organization——

Mr. KNOX. This is an AFL-CIO.

Mr. PRATT. AFL-CIO right here in town.

Mr. MAZZOLI. I would like for you to talk to my people.

Mr. LAWRENCE SMITH. Would the gentleman yield.

Mr. MAZZOLI. I would be happy to.

Mr. LAWRENCE SMITH. What you are saying is an unarmed citizenry breeds a more dangerous situation than an armed citizenry.

Mr. PRATT. For both the police and the citizenry.

Mr. LAWRENCE SMITH. How do you explain countries like England and Japan where the citizens are not armed at all, where gun ownership is illegal in private hands and there are practically no handgun murders each and every year in all of those countries?

Mr. PRATT. I would like to address that.

Mr. LAWRENCE SMITH. Including England where bobbies still don't carry weapons.

Mr. PRATT. The crime rate with guns has gone up since the imposition of those laws. The U.S. had to help England out by sending guns so they could defend themselves against a Nazi attack in the Second World War.

Mr. LAWRENCE SMITH. Why don't we try from 1945 on.

Mr. PRATT. Denmark and Norway and Sweden and Switzerland where they have a citizen army and a militia, all of whom have fully automatic weapons at home by the thousands.

Mr. LAWRENCE SMITH. You didn't answer my question. I am talking to you about Japan.

Mr. PRATT. The gun control laws are not relevant to the society and don't have any effect. If you want to look at just one, which is not the way to study it, you can look at Mexico where they kill each other with knives three times more than with guns in the United States.

Mr. LAWRENCE SMITH. I——

Mr. MAZZOLI. Let me just ask, does everyone at the table—let me go around.

Do you agree with the statement that we would be a safer society if everybody had a gun?

Mr. BAKER. I would put it another way, Congressman. What you are doing is relegating the guns just to criminals. The guns aren't going to evaporate.

Mr. MAZZOLI. I will tell you the reason there may be this great gulf is maybe we are operating in such different wavelengths that there is really no possibility of doing more than just going through perfunctory hearings here. If you agree that if everybody in this room had a gun, that this would be a safer place to be today——

Mr. BAKER. Than if nobody had one.

Mr. MAZZOLI. If everybody had one, that this would be a safe place and that is what I think the gentleman said, that we should, therefore, arm. Is that your position? Do you agree with the gentleman?

Mr. BAKER. I don't think everybody in this country ought to have a gun, no, sir, but I don't think anybody ought to be able to tell a law-abiding citizen he can't have one.

Mr. MAZZOLI. I can't argue that point because you may have other civil liberties groups that feel as you do.

Do you agree, Mr. Knox, that we would be much safer and all the policemen would be safer if everybody had a gun in a family dispute or a street corner dispute?

Mr. KNOX. My opinion doesn't make much difference. We have factual bases to make a judgment.

In 1976 Georgia passed a law like the recently passed Florida law that allowed anyone who is not prohibited by law from possessing a gun to get a permit for about 20 bucks, to carry a firearm whenever and wherever. And there were great screams, as there have

been in Florida, about the return of the wild west and this is going to cause blood to flow in the streets because all these guns are out there.

In fact the crime ratio dropped. There is no known instances, according to the issuing authority of licensed guns and better than 70,000 in the State, none are used. So in answer to your question, regardless of what I think, it shows that it does not.

Mr. MAZZOLI. You are a very sensible man. Let me ask you this: Would you honestly feel more comfortable talking on a controversial subject like gun control if you knew everybody had a gun in this room?

Mr. KNOX. I wouldn't—the slightest control in this room if everybody had a gun.

Mr. MAZZOLI. Thank you very much.

Mr. HUGHES. The gentleman from Florida, Mr. Smith.

Mr. LAWRENCE SMITH. Thank you, Mr. Chairman. I appreciate that. It appears that if one is to carry forward the basic thrust of your arguments, that these laws on control of weapons don't work because criminals are capable of getting them in their hands, so therefore I would assume the logical extension is there shouldn't be any laws at all.

We have laws against rape, robbery, etcetera. They don't work. We have to continue to hire police to protect people from rape, robbery, assault and the like. And they did a fair job because we never have enough police officers. The point is a lot of people get raped, a lot of women, a lot of robberies are committed, assaults, muggings, burglaries, you name it—car thefts, etcetera.

What you are telling me, then, if it doesn't work, you ought to take it off the books. Now, are you making a distinction between all other laws and those only that relate to guns?

Mr. KNOX. If I can answer your question——

Mr. LAWRENCE SMITH. That would be a really unique situation.

Mr. KNOX. When Moses came down from Mt. Sinai, the command was "thou shalt not murder." Not thou shalt not carry a rock with which to murder. We should concentrate on the act we are trying to prevent, not secondary laws which fail to prevent the primary law.

For some reason this nation and society doesn't want to put away the people who commit the primary law.

Mr. LAWRENCE SMITH. You are not answering the question.

Mr. KNOX. I am——

Mr. LAWRENCE SMITH. You are indicting society for failing to be stringent on the enforcement of laws, as you would like. My question is different. It is very simple. Do you believe there shouldn't be any laws with reference to the control of weapons for American citizens, law-abiding American citizens, just like there shouldn't be any control of laws for law-abiding citizens on any other thing.

The difference is that we don't know who is law-abiding and who is not, so the price of a civilized society is to make some laws and hope that those that break them can be caught and punished. Now, do you, in fact, want to abrogate all laws because they don't work? That is what I am asking.

Mr. KNOX. You are lumping a secondary type of law, firearms law, with a primary law, the rape, robbery and murder. And I do not believe that unilateral disarmament of——

Mr. LAWRENCE SMITH. That is not true. You know that. If you make the law against the ownership of guns, that is a primary law. That is not a secondary law. It is a primary law. Yes, it is, I'm sorry. A primary law.

Mr. KNOX. It is a malum prohibitum and malum in se. I think you are a lawyer, and you remember the difference.

Mr. LAWRENCE SMITH. Yes.

Mr. KNOX. That which is bad of itself is murder or rape. Malum prohibitum is that which is bad because the government decided it should be bad. Each have the same effect. This is why as a law-abiding citizen I will obey the laws, but I also have the right under the first amendment to petition the Congress for grievances, and when the Congress decides they want to inhibit that right from mine to protect myself, wife, to protect herself, then I object.

Mr. LAWRENCE SMITH. So you can pick and choose the laws you feel you want.

Mr. KNOX. No, sir. I will enforce the laws, but I will oppose any law with which I disagree.

Mr. LAWRENCE SMITH. Even though it is the law.

Mr. KNOX. That is not what I said. I said I will oppose it before this body, before this body. I am a law-abiding citizen. I will obey the laws that exist and I do, but I have the right to object when this body wants to create new laws and to disarm me when there is no way you are going to disarm the criminal, and that is a fact.

Mr. LAWRENCE SMITH. Mr. Knox, one thing I can assure you, not only do you have that right, which will be continued into democracy, but you have exercised it as frequently as anyone. You voiced your objection. I would like to ask you a question. You mentioned that the statistics bear out that when Florida passed its law, which vitiated all the county or city waiting periods in Florida, statistics show that crime went down. Now——

Mr. KNOX. That isn't what I said. I said Georgia.

Mr. LAWRENCE SMITH. Oh, Georgia.

Mr. KNOX. It has been on the book long enough to see what happened.

Mr. HUGHES. I have just a couple questions real quickly, if I might. Mr. Baker, you indicated that you were intrigued by my colleague's suggestion of an automated system where you could find out almost instantaneously whether or not any individual has records. Let me ask you, would you agree that we should be automating that on ATM computers.

Mr. BAKER. I think that is a registration system. You are talking about firearms. It is different. You are talking about firearms, and there are particular firearms owners, as opposed to whether they are qualified under Federal law to purchase.

Mr. HUGHES. You still have a central system.

Mr. BAKER. No. At one point you are talking about whether an individual has been convicted of a crime and whether you could instantaneously access that to the point of purchase for a handgun. On the other hand, your originally posited centralized registration for firearms; two different things.

Mr. HUGHES. You would have no objection to that type of a central system.

Mr. BAKER. We object strenuously to a centralized repository registration system of firearms connected with their firearms owners, yes, sir.

Mr. KNOX. If you want to have a centralized repository on criminals, you will find no objection from any of us.

Mr. HUGHES. Mr. Baker, would you have any problems with our taking the form that ATF now completes, application for a handgun which gives identity and so forth? Do you have any problem with sending that to the law enforcement agencies in the immediate region?

Mr. BAKER. Yes, I think that I do. I would like to be able to give you a longer answer at some point for the record, but on initial blush, that lends itself without some requirement that they be destroyed at a certain point, that is the same thing I was talking about, a centralized registration.

Mr. HUGHES. A couple more premises, that those records are destroyed after a period of, let's say, 20 days.

Mr. BAKER. What's the purpose for which they are sent?

Mr. HUGHES. To give the law enforcement agencies in the area an opportunity to examine them.

Mr. BAKER. Simply as notification?

Mr. HUGHES. Notification. You don't hold up the transfer of the handgun. He or she purchases the handgun. The records are destroyed after a reasonable period of time, let's say, 20 days or whatever.

Mr. KNOX. Well——

Mr. HUGHES. I will get to you, Mr. Knox.

Mr. Baker.

Mr. BAKER. I think that can be done now.

Mr. HUGHES. Would you support that?

Mr. BAKER. I think that is done now. I think it can be done now. Based on the way you posit it, I don't see a problem.

Mr. HUGHES. Mr. Knox.

Mr. KNOX. I said this is present law. The 1968 Gun Control Act allows any local agency requesting that information to receive it.

Mr. HUGHES. No. I am talking about having it automatically sent to the local law enforcement agency, that information.

Mr. KNOX. I object to the way it is done now—proposed. And I object because of the 4473 form which addresses the request of whether or not this person is—can buy it. It also includes the name and the—name of the manufacturer and serial number.

I think that is wrong. Within one generation you have that.

Mr. HUGHES. That wasn't my question. My question was, do you have any problem? I mean, you testified that you believe it is a violation of the individual's right and they shouldn't have to wait. They apply for a firearm, they shouldn't be treated as a criminal. My question is would you support an approach that would make that information available; that is, information to be sent to the local law enforcement agencies.

Mr. KNOX. I would object.

Mr. HUGHES. Mr. Snyder, you would object?

Mr. SNYDER. Yes.

Mr. HUGHES. Mr. Pratt.

Mr. PRATT. Yes, because copies of the information could be made even if the record were destroyed and it's the same objection we raised to the bill.

Mr. HUGHES. I understand. As I understand it, Mr. Knox, it was your argument that basically registration works against the police and society because if you in fact pass strict regulation of handguns, the criminals are going to buy either sawed-off shotguns or make them and they are more dangerous.

Mr. KNOX. According to the evidence, according to this, yes, sir.

Mr. HUGHES. What you are saying is we should not have any restrictions on weapons.

Mr. KNOX. Not on the weapon. On the offense.

Mr. HUGHES. So what you are saying is that we should make it easier for criminals to get handguns because that would make society safer because they wouldn't go out and buy sawed-off shotguns. Is that what you basically said?

Mr. KNOX. We should make society safer by addressing the offense. The criminal is not deterred on the evidence, Mr. Chairman.

Mr. HUGHES. I am just using your argument. What you are saying basically is that we work against ourselves. We regulate handguns, we are going to force criminals to get sawed-off shotguns, and we should not do that. We should make it easy to get handguns so they don't have to buy or make sawed-off shotguns.

Mr. KNOX. A gross distortion of what I am saying. No. What I am saying is that the problem of crime needs to be addressed. The problem of the criminal needs to be addressed and we are dancing around it when you try to address the type of gun used—we are seeing evidence right now of criminals improving their armament because of the laws that have been advocated by—I believe, that you also were one of them who advocated getting rid of these little unreliable low-powered guns, and so we have upgraded the armament of the criminal.

I think we ought to address the problem of what the criminal is doing.

Mr. HUGHES. I don't know what small guns you are talking about.

Mr. KNOX. "Saturday night specials."

Mr. HUGHES. You are right about one thing, that there is a war and that the police are upgrading their weapons because they find that they are outgunned. I mean that is happening throughout the country.

Thank you very much. I know you have 1 minute, and we thank you for your testimony.

Mr. KNOX. Thank you, Mr. Chairman——

Mr. PRATT. Thank you.

Mr. KNOX [continuing]. For giving us an opportunity to express our views.

Mr. HUGHES. The subcommittee will stand in recess for 15 minutes while we catch this vote, and we will hear from the last, but certainly not the least of panels.

[Recess.]

Mr. HUGHES. The subcommittee will come to order. I am pleased at long last to welcome our final panel today, Mrs. Sarah Brady,

the Vice Chair of Handgun Control, Incorporated. Since she first testified before this subcommittee in September of 1985 in New York City against the McClure-Volkmer Firearms Control Board, she has been tireless in her support for the laws and strengthening the law by enacting handgun waiting period legislation.

One of the bills we are discussing today, H.R. 975, is the Brady bill under the courage of her husband, James Brady, White House Press Secretary, and Mrs. Brady's own dauntless work on his behalf.

Finally, our concluding panel today consists of a singer/composer and movie provider, Harry Nilsson, Member of the Executive Committee of the National Coalition to Ban Handguns, spokesman for gun control measures in California and an extremely prolific and talented artist. He has won two Grammy awards. His films have won awards here and abroad for their merit Mr. Nilsson has written musical scores for musicals, motion pictures and television series. Currently he is producing motion pictures.

Mrs. Brady and Mr. Nilsson, on behalf of the Subcommittee on Crime, we welcome you. Will you come forward at this time? We have your statements, and without objection they will be made a part of the record, and again I want to apologize for the lateness of the hour.

I thought we would have concluded this hearing by early afternoon, but it didn't work that way, unfortunately, and we appreciate your willingness to come and testify and your patience with us in this long delay.

Welcome, Mrs. Brady, you may proceed as you see fit.

TESTIMONY OF SARAH BRADY, VICE CHAIR, HANDGUN CONTROL, INC., WIFE OF JAMES BRADY, WHITE HOUSE PRESS SECRETARY AND HARRY NILSSON, SINGER, COMPOSER, MOVIE PRODUCER, MEMBER, EXECUTIVE COMMITTEE, NATIONAL COALITION TO BAN HANDGUNS

Ms. BRADY. Thank you for the opportunity to testify once again before this distinguished subcommittee. My name is Sarah Brady. I am Vice Chair of Handgun Control, Inc., a national citizens organization working to keep handguns out of the wrong hands. I am here today in strong support of H.R. 975, introduced by Representative Edward Feighan. H.R. 975 has attracted more than 100 cosponsors including subcommittee members, George Crockett, Romano Mazzoli, and Larry Smith. This legislation establishes a 7-day waiting period and allows for a background check on handgun purchasers.

Having previously testified before this subcommittee, I know many of you are familiar with my personal experience and my involvement with this issue. It seems very odd to me that it is in question whether we should act to keep handguns out of the wrong hands, for that is what this debate is about—whether we allow convicted felons to simply walk into gun stores and immediately walk out with handguns.

We already have a Federal law prohibiting convicted felons, minors, people who have been adjudicated mentally ill, illegal aliens, and drug addicts from acquiring handguns. But what does

that mean if we do not have the tools to enforce that law? And so I ask you today, do you believe that a convicted felon should be able to walk into a gun store and get a handgun instantly? I cannot believe that anyone could sanction that. Yet as long as we do not have a reasonable waiting period and give police the opportunity to run background checks, a convicted felon will have our seal of approval. That is why I am here today. I am making a very personal appeal to you because I believe you have a responsibility to act to keep handguns out of the hands which would misuse them. Handguns in the wrong hands result in tragedy. I do not say that theoretically. I speak from experience.

I know that you are familiar with what happened on March 30, 1981. At 2:30 p.m. that day, my husband, Jim Brady, was shot through the head by a deranged young man. Jim nearly died. The President nearly died, and two of his security men were seriously wounded.

It has been almost 7 years now. March 30 marks the anniversary of the shooting. I often think about the other handgun tragedies which have taken place in these 7 years that could have been prevented if there were a national waiting period. We must not wait another 7 years for other tragedies to occur. We must not wait any longer. We need a national waiting period now.

John Hinckley's handguns were confiscated in October 1980 as he tried to board an airplane in Tennessee, where he was stalking then President Jimmy Carter. Hinckley, a drifter, then gunless, needed to replenish his arsenal. In possession of a Texas driver's license and knowing that Texas had no waiting period or background check, Hinckley made the trip to Dallas to purchase the handgun he used to shoot my husband and the President of the United States. Hinckley no longer lived at the address he listed on the Federal form he was required to complete. A simple check might have stopped him. Had police been given an opportunity to discover that Hinckley lied on the Federal form, Hinckley might well have been in jail instead of on his way to Washington. Now today Jim lives daily with the consequence of Hinckley's easy access to a handgun.

This bill does not change who is legally permitted to purchase a handgun. Nor does it impose a major burden on law-abiding citizens. This legislation also provides that if an individual has a legitimate, immediate need for a handgun, the waiting period can be waived by local law enforcement. Is 7 days too much to ask a responsible citizen to wait when we know that so many lives are at stake? I don't think so.

Public support for a waiting period and background check is strong. A 1981 Gallup Poll found that more than 90 percent of Americans want such a law. This legislation is supported by every major law enforcement organization in the country, many representatives of which are here today to testify in support of this bill. The American Bar Association, the American Medical Association, the AFL–CIO, and other organizations too numerous to mention, all support a Federal 7-day waiting period. The 1981 Reagan Administration Task Force on Violent Crime recommended such a law. A 1985 Justice Department report stated that "at minimum,

the acquisition of a firearm by a felon should be somewhat more complicated than just walking into a gun shop and buying one."

While the National Rifle Association opposes this bill, it is important to note that several years ago in its own publication, the NRA stated that a waiting period would be effective as a means of "reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring guns."

The NRA has flip-flopped on waiting periods and recently has taken extreme positions on machine guns, cop-killer bullets, and plastic guns. Considering these extreme positions, I find it incomprehensible that any Member of Congress could trust the judgment of the NRA on a national waiting period or any legislation affecting American lives and public safety, especially when the NRA is in direct opposition to America's law enforcement community which is charged with the responsibility of protecting us.

The NRA argues that proscribed persons do not purchase their handguns over the counter and certainly will not do so if they have to submit to a waiting period. Yet, a 1985 Department of Justice study entitled "The Armed Criminal in America," found that over 20 percent of criminals do obtain their handguns through gun dealers. In fact, in States with waiting period laws, many criminals and others disqualified from buying handguns have been caught trying to purchase their handguns over the counter. Law enforcement officials from across the nation report tremendous success where waiting periods are in effect.

For example, according to a police official in Memphis, TN, the State's 15-day waiting period screens out about 50 applicants a month, most of whom have criminal records.

According to the California Department of Justice, the State's 15-day waiting period screened out more than 1,500 prohibited handgun purchasers in 1986. In that same year, Maryland's 7-day waiting period caught more than 700 prohibited handgun buyers.

States with waiting periods have been effective in stopping criminals before tragedy occurs, but it is unfortunate that in States without waiting periods or background checks, police do not have the same tools to prevent such tragedy.

One of the most shocking and disturbing cases of 1987 occurred in Florida in the wake of the October stock market crash. Arthur Kane purchased a handgun only 45 minutes before murdering his Florida stockbroker and wounding another. If police had been able to conduct a background check, they could have discovered that Kane was a convicted felon.

In another well-publicized event, Dwain Wallace, who had a history of mental illness, was able to instantly purchase a handgun from a Youngstown, OH, pawnshop. Just 2 days later, he brandished the handgun in the Pentagon and was immediately gunned down by a Pentagon guard.

A convicted felon, Larry Dale, purchased a handgun at a Tulsa, Oklahoma gun shop, and within 24 hours opened fire at a grocery store, killing one customer and wounding another.

I have described just a few of the many well-known cases of proscribed persons who instantly purchased their handguns over the counter without having to undergo a waiting period or background

check. But for each well-known case, there are many, many more which never make the front page.

While I am not suggesting that a waiting period will stop all crime, it is obvious from these examples that we can save many lives if we want to.

The NRA claims that waiting periods do not prevent criminals from obtaining handguns because criminals will get them from other sources. But in reality, it is the States without waiting periods that are a significant source of handguns for criminals.

The Treasury's Bureau of Alcohol, Tobacco and Firearms' study of handguns used in crime found that of all the handguns used in crime in New York City, only four percent were purchased in New York State which requires a background check. Virtually all the rest were from States without waiting periods or background checks. In addition, the study found that in States without waiting periods or background checks, an overwhelming majority of handguns used in crime were purchased within the same State. For example, of all the handguns used in crime in Dallas, almost 90 percent were purchased in Texas, which has no waiting period.

The NRA argues that waiting periods should be left up to the States, not the Federal Government. While individual States, many counties and municipalities have passed local waiting periods, a national law is critical because it will ensure that handguns are not purchased over the counter in States without waiting periods and then sold on the street in States requiring waiting periods and or background checks.

I am ashamed that my own State of Virginia, which has no waiting period or background check, is a major source of handguns used in crime elsewhere. Just a few weeks ago, police arrested one Richmond man who reportedly purchased more than seventy guns in Virginia and then brought them into Washington, DC, to sell on the street. Another man from the District was charged with using false identification, purchasing more than two dozen semi-automatic handguns in Virginia and selling them to District drug dealers. Unfortunately, these examples represent only the tip of the iceberg of this criminal traffic in handguns.

We can prevent some needless tragedy. We can make it more difficult for criminals to get handguns. I hope that the day will come when no American family has to go through what my family has suffered. Again I ask, do you really believe that a convicted felon should be able to walk into a gun store and instantly purchase a handgun? The American people do not believe that. But until action is taken on this bill, a convicted felon purchasing a handgun will have our seal of approval.

The NRA would like to turn back the clock to the days before passage of the 1968 Gun Control Act, which has served our Nation well for nearly two decades. I don't need to remind you of the senseless tragedies that spurred passage of this law. 1988 marks the 25th anniversaries of the assassinations of Martin Luther King and Robert F. Kennedy. Passage of H.R. 975 would be a fitting way to mark the anniversaries of these tragic events.

I ask that you stand with our law enforcement community and provide the leadership that will save lives by keeping handguns out

of the wrong hands. I urge you to report H.R. 975 out of subcommittee favorably. Thank you.

Mr. HUGHES. Thank you, Mrs. Brady.

[The statement of Mrs. Brady follows:]

HANDGUN CONTROL

ONE MILLION STRONG . . . working to keep handguns out of the wrong hands.

TESTIMONY OF SARAH BRADY
VICE CHAIR OF HANDGUN CONTROL, INC.

IN SUPPORT OF H.R. 975

PRESENTED BEFORE THE
HOUSE JUDICIARY SUBCOMMITTEE ON CRIME

FEBRUARY 24, 1988

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Page 1

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felon should be able to walk into a gun store and instantly purchase a handgun? The American people do not believe that. But until action is taken on this bill, a convicted felon purchasing a handgun will have our seal of approval.

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I ask that you stand with our law enforcement community and provide the leadership that will save lives by keeping handguns out of the wrong hands. I urge you to report H.R. 975 out of Subcommittee favorably.

Thank you.

Mr. HUGHES. Mr. Nilsson.

Mr. NILSSON. Thank you very much, Mr. Chairman.

I would first like to say I am very honored to to be here. I would like to complement Mrs. Brady for her courage and also her responsibility in taking care of her duties as a citizen. I am here for the same purpose.

I am Harry Nilsson and am speaking today on behalf of the National Coalition to Ban Handguns as a member of its executive board.

Although I primarily speak for the 33 religious, professional and civic organizations which make up the coalition, I have a personal commitment to ending handgun violence in America. I was always concerned about the issue, but became deeply involved with the coalition 7 years ago when my dear friend, John Lennon, became yet another victim.

Today you are hearing testimony on a bill that would be a first important step toward reducing handgun violence in this country. I urge you to support the strictest possible legislation mandating a waiting period and background check.

There are two House bills that deal with waiting periods. Although today's focus may be on H.R. 975, I urge you not to overlook too quickly the merits of H.R. 155, which calls for a 15-day waiting period and mandatory background check.

In California, where I live, there is a 15-day waiting period before the purchase of every handgun, which makes California's laws among the strictest in the country. Any Federal law that is passed should be at least as strict as the strictest State law already in effect. As California is the most populated State in the country, representing 11 percent of the entire U.S. population, the State's strict waiting period law should serve as a model of the minimum acceptable Federal standard.

This standard will vastly improve laws of many States that have lesser or no waiting periods, such as Mrs. Brady pointed out. In fact, there are several States with waiting periods already in effect that are more strict than H.R. 975 proposes. In total, more than 68 million people, or 28 percent of the U.S. population, already live in States or cities that have stricter laws than what is proposed in the 7-day waiting period bill.

A 15-day waiting period allows law enforcement time to complete a more thorough background check. Law enforcement officials in States with 7-day waiting periods have let us know that this time frame affords only sufficient time to complete a computer check for felony convictions. It is wholly insufficient to permit a check of whether the applicant is a member of another prohibited class, for instance, whether the applicant has ever been adjudicated mentally incompetent. Most importantly, a 15-day waiting period is but a minor inconvenience to lawful purchasers.

On this point, you have undoubtedly heard from the gun lobbyist that law-abiding citizens will be left without protection, vulnerable to criminal attack for the duration of any waiting period. The reality is a handgun is not a useful self-defense weapon. FBI figures show that only 193 people used a handgun to kill an assailant in self-defense in 1986. In stark contrast 22,000 Americans lost their lives to handgun violence in 1986.

I do not wish to convey the impression that the California law has been the solution to the problem of handgun violence in our State. California still has a significant problem with handgun violence with the freeway shootings and recent gang violence, but the 15-day waiting period has stopped thousands of prohibited persons from purchasing handguns, and it also serves as a "cooling-off" period for those who might buy a handgun in the heat of anger and use it impulsively.

The national legislation you are considering today is important in several respects. It will serve to reinforce State laws by setting a national, uniform minimum waiting period. Some of the problems with handgun violence experienced by States with meaningful waiting periods are caused by less stringent regulation in nearby States, as also was pointed out earlier, Virginia and DC, as examples. It is easy to see why we need a national standard. It is not asking a lot when you consider some of the statistics—54,000 persons lost their lives in 1963 to 1973 in Vietnam while 84,000 Americans lost their lives here with handguns. We barely blinked.

A meaningful waiting period and mandatory background check is only the first step in acting to reduce the shameful level of handgun violence afflicting our Nation today. The only real solution to the problem is a complete ban on the private possession of handguns with exceptions for law enforcement, trained security personnel, target shooters who keep their guns at a controlled target range and collectors who disable their weapons.

Only then will America begin to be free of the disease that has claimed the lives of 500,000 Americans since 1968. Only then will we not have to suffer the violent and senseless loss of our friends and families. I don't think I'm overstepping the bounds of friendship when I paraphrase John Lennon: "Imagine there's no handguns. It isn't hard to do."

After listening today, I wonder. It is hard to do. Imagine the 15-day waiting period. That isn't so hard to do. Fifteen days isn't asking too much. Seven may be asking not enough. I thank you very much.

Mr. HUGHES. Thank you very much, Mr. Nilsson.

[The statement of Mr. Nilsson follows:]

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Washington, D.C. 20002
Phone 544-7190 or 7191

national coalition to ban handguns

TESTIMONY

OF

HARRY NILSSON

EXECUTIVE COMMITTEE MEMBER

NATIONAL COALITION TO BAN HANDGUNS

BEFORE THE

SUBCOMMITTEE ON CRIME

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

February 24, 1988

participating organizations

American Association of Suicidology
American Ethical Union
Americans for Democratic Action
American Jewish Congress
American Psychiatric Association
American Public Health Association
Black Women's Community Development Foundation
B'nai B'rith Women
Board of Church & Society, United Methodist Church
Center for Social Action, United Church of Christ
Church of the Brethren, Washington Office
Friends Committee on National Legislation
International Ladies' Garment Workers Union
Jesuit Conference—Office of Social Ministries
National Alliance for Safer Cities
National Association of Social Workers
National Council of Jewish Women, Inc
National Council of Negro Women
National Jewish Welfare Board
National Urban League, Inc.
Polital Action Committee, Woman's National Democratic Club
The Bible Holiness Movement, International
The Program Agency, Presbyterian Church (U.S.A.)
Union of American Hebrew Congregations
Unitarian Universalist Association
United States Conference of Mayors
United States Student Association
United Synagogue of America
Women's Division, Board of Global Ministries, United Methodist Church
Women's League for Conservative Judaism
Young Women's Christian Association of the U.S.A. National Board
(partial listing)

Thank you, Mr. Chairman.

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population, the state's strict waiting period law should serve as a model of the minimum acceptable federal standard. This standard will vastly improve laws of many states that have lesser or no waiting periods. In fact, there are several states with waiting periods already in effect that are more strict than H.R. 975 proposes. In total, more than 68 million people, or 28 percent of the U.S. population, already live in states or cities that have stricter laws than what is proposed in the seven day waiting period bill.

A fifteen day waiting period allows law enforcement time to complete a more thorough background check. Law enforcement officials in states with seven day waiting periods have let us know that this time frame affords only sufficient time to complete a computer check for felony convictions. It is wholly insufficient to permit a check of whether the applicant is a member of another prohibited class, for instance, whether the applicant has ever been adjudicated mentally incompetent. Most importantly, a fifteen day waiting period is but a minor inconvenience to lawful purchasers. On this point, you will undoubtedly hear from the gun lobby that law abiding citizens will be left without protection, vulnerable to criminal attack for the duration of any waiting period. The reality is a handgun is not a useful self defense weapon. F.B.I. figures show that only 193 people used a handgun to kill an assailant in self defense in 1986. In stark contrast, 22,000 Americans lost their lives to handgun violence in 1986.

I do not wish to convey the impression that the California law has been the solution to the problem of handgun violence in our state. California still has a significant problem with handgun violence, but the 15 day waiting period has stopped thousands of prohibited persons from purchasing handguns and it also serves as a "cooling off" period for those who might buy a handgun in the heat of anger and use it impulsively. The national legislation you are considering today is important in several respects. It will serve to reinforce state laws by setting a national, uniform minimum waiting period. Some of the problems with handgun violence experienced by states with meaningful waiting periods are caused by less stringent regulation in nearby states. It is easy to see why we need a national standard.

A meaningful waiting period and mandatory background check is only the first step in acting to reduce the shameful level of handgun violence afflicting our nation today. The only real solution to the problem is a complete ban on the private possession of handguns with exceptions for law enforcement, trained security personnel, target shooters who keep their guns at a controlled target range and collectors who disable their weapons. Only then will America begin to be free of the disease that has claimed the lives of 500,000 Americans since 1968. Only then will we not have to suffer the violent and senseless loss of our friends and families. I don't think I'm overstepping the bounds of friendship when I paraphrase John Lennon: "Imagine there's no handguns. It isn't hard to do."

Mr. HUGHES. Mrs. Brady, there was a lot of testimony today about John Hinckley's purchase of his handgun that was used to shoot your husband, Jim Brady, and the President and some of the security personnel detailed to the President.

I wonder if you can tell us, if you know, what address was listed by John Hinckley in Texas.

Mrs. BRADY. His Lubbock address in Texas where he had gone to college.

Mr. HUGHES. College dormitory——

Mrs. BRADY. No, I believe it was a small apartment in Lubbock. He had left college and gone back to Colorado to live with his parents for a very short while. My recollection is that he left Colorado, telling his parents he might go to college in the Northeast. He, indeed, went up to see Jodie Foster. That was one of his trips up there.

He got carried away with his fantasy and started to stalk, then President Carter, which is why he was in Nashville, Tennessee. At that time, according to testimony and background information, his parents were not giving him money. He was kind of on his own. They had lost faith in him. He dropped out of college quite a bit, and he was rather a poor young man at that point. He was out stalking President Carter and getting up the nerve to do something to excite Jodie Foster's attention.

As he attempted to leave Nashville, he was in a hurry and forgot to pack his firearms that he owned and had been carrying with him in suitcases. In an attempt to board an aircraft, the guns were caught by a metal detector and confiscated.

He was, I believe, charged with a misdemeanor at that point.

Mr. HUGHES. Do you know the date that that occurred?

Mrs. BRADY. Early October.

Mr. HUGHES. Of 1980.

Mrs. BRADY. 1980. His mission to stalk then President Carter was foiled because he had no weapons and being totally gunless, he had to replenish his arsenal. He realized that he still possessed a Texas driver's license from when he was in college there. It was still a valid Texas driver's license because it was not out of date, although he no longer lived there. Knowing Texas had no background check, he made a trip to Texas for the sole purpose of purchasing a gun, which he did do.

He purchased it from Rocky's Pawn Shop in Dallas.

Mr. HUGHES. What date was that, do you know?

Mrs. BRADY. October 16, I believe.

Mr. HUGHES. 1980.

Mrs. BRADY. Yes.

Mr. HUGHES. When was the last time Mr. Hinckley lived in Lubbock, TX?

Mrs. BRADY. I think it was the summer before that. I don't think he attended college since that spring semester.

Mr. HUGHES. When was the last time he occupied that room in Lubbock, Texas.

Mrs. BRADY. Late May or early June.

Mr. HUGHES. May of 1980?

Mrs. BRADY. The point that I have been making all along and the point that I think is salient here is the fact that when he filled out

his Federal form, he lied by giving a false address. We have heard testimony today from both the National Rifle Association and from members of our law enforcement community.

The law enforcement community has testified on several occasions. This morning we heard testimony from law enforcement that addresses are frequently checked in background checks to ascertain whether someone actually lives where they say they live. The NRA says that a false address would never be caught.

Because of my close feeling for law enforcement and because I respect the men and women responsible for saving lives and protecting this country, I believe what law enforcement tells me can be done.

Mr. HUGHES. Inspector Spurlock testified this morning—he is with the Metropolitan Police Department—that the second largest category of folks that they find are disqualified are in that category, false addresses.

Mrs. BRADY. That is correct. And a lie on your Federal form is a Federal felony.

Mr. HUGHES. Do you know to your knowledge that Mr. Hinckley had in fact that address—that that was his last address in May of 1980? Was that the last time he lived there?

Mrs. BRADY. That is my recollection. It was around that time.

Mr. HUGHES. But it is clear he was not living there.

Mrs. BRADY. He was not physically there, no.

Mr. HUGHES. Not in October of 1980.

Mrs. BRADY. Certainly not and hadn't been for quite a while.

Mr. HUGHES. Thank you very much.

Mr. McCollum.

Mr. MCCOLLUM. I want to clarify that the false address is the only thing you know of that would have triggered anyone doing a background check to have denied or suspected or whatever; is that correct?

Mrs. BRADY. Under the way the laws are, yes, that is correct.

Mr. MCCOLLUM. In the question that has come up this morning, too, in some of the testimony and this afternoon, there has been an issue about the effectiveness about what we might pass in the waiting period with respect to the States that currently do not have waiting periods and do not do background checks of any sort.

Certainly, we would have a waiting period and a cooling-off aspect would be there. What is your opinion about the testimony that we have received to the effect that it wouldn't really make any difference if we had the waiting period in those States, because they could just not do the background check anyway, especially if the State law prohibited that which some do now.

Mrs. BRADY. I assume that you are asking what good is it going to do?

Mr. MCCOLLUM. That's right, in those States, obviously, that do the background checks now and have the waiting periods, it isn't going to have any effect because they are already doing it and in those States that don't have the background check, the waiting period alone isn't going to do the trick, is what I guess the argument is.

Mrs. BRADY. First of all, I think a waiting period always helps because it provides a cooling-off period. I have worked pretty exten-

sively with law enforcement over the last several years since I have been involved in this issue. Almost every law enforcement organization has assured me, and they speak for their members, that they want to run background checks.

Obviously, if you are in a small town in Arkansas and you know everybody in town, you may not need to run a background check on every person who applies to purchase a handgun. But that opportunity is there to run a background check, mainly in your larger urban areas.

Mr. McCollum. You don't think some State legislatures would actually pass laws prohibiting the background check from being done.

Mrs. Brady. I would hope they would not. That would be very unwise, I think. I can't imagine anyone who would think of such a thing—when we are concerned about something in the public safety area which is designed for one purpose and one purpose only, to save lives and suffering. I would find it hard to believe that a responsible State legislature would do that.

Mr. McCollum. I don't think any of us up here are opposed to the concept of trying to prohibit felons from obtaining possession of handguns. That simply is not going to be the position of any Member of Congress that I am aware of. But I think there is a genuine concern up here in looking at this legislation with, A, its effectiveness and, B, whether it is a matter which should be national or Federal as opposed to State.

That is indeed the way that I have looked at it trying to determine that in my own mind. This National Institute of Justice research brief that Mr. Knox cited and I read to him is one which came to my attention sometime ago. It does seem to run counter to a lot of the other States, we hear. I don't know if it is counter or just a different interpretation, but Mr. Wright, in his interviews, indicates that more than 1,800 of the people he interviewed, the study found few of the gun-owning felons bought their guns from retail sources rather than obtaining them from family members or friends on the street or often they stole them.

None of this legislation, if this is an accurate study, would prohibit or prevent those particular felons from getting hold of guns. I assume that you wouldn't disagree with that conclusion. You just have a different interpretation of the significance. Is that correct?

Mrs. Brady. I don't know of the validity of that study, but I do know according to the Department of Justice study, 20 percent of convicted felons do purchase their guns through legitimate channels. My purpose and what we are talking about today, is to stop felons from walking into gun stores and walking out instantly with handguns. If we can stop 20 percent and save some lives, then we are taking a big step.

Today we have listened to the testimony of a broad range of our law enforcement community, from the FOP, which is the largest rank and file police organization in the country, to the Chiefs of Police, to the National Organization of Black Law Enforcement Executives.

Law enforcement overwhelmingly supports this measure and feels that it is effective and will help them. I believe our law en-

forcement community. I believe them far more than I believe a special interest group on this issue.

Mr. McCollum. Mrs. Brady, I don't think it is a question of whether I believe NRA or the police. It is a question of evaluating the facts, as far as this Member is concerned.

Mrs. Brady. Law enforcement obviously testified that it is effective, and everything that I have seen in sifting through the facts, shows that it is effective.

Mr. McCollum. I am still assessing and I am concerned about the national implications. I don't believe right now from what I have seen, and we haven't seen all the data, that the Federal resources are available to provide a national check. However, some data may be developed. I would assume from the best I can determine up until now from the testimony that has been given, that if each State adopted a waiting period within its own State and perhaps could do what California and New Jersey and others are doing with respect to checking locally within the bounds and it might prevent some occurring, whether that interest in putting a national legislative mandate on a waiting period and the results that might come from that are worth the effort or should be balanced against the interest that might exist otherwise out there of States' rights and of individuals who might feel compelled or restricted from obtaining their handgun easy, I don't know and I am still waiting.

I thank you for coming and giving us your views. Thank you.

Mr. Hughes. Thank you.

The gentleman from Florida, Mr. Smith.

Mr. Lawrence Smith. Thank you, Mr. Chairman.

Mrs. Brady and Mr. Nilsson, I sat through a lot of testimony today and you sat through it before, and you have heard it before. I hope it doesn't strike you as any more difficult to swallow than it was previously, in previous times or previous years, especially the testimony of the people who were on the last panel.

I find it odd that they continue to use statistics the way they want. You give us statistics referencing all the people that have been killed and they give us statistics that don't bear any relation to that at all, and it is amazing how one can juggle all the statistics and somehow in the capability to juggle, lose all these dead bodies.

That is what they are. They are just dead bodies and those over half million since 1968 represent not only dead people, but broken families, broken lives, economic loss of an incredible nature. I find it difficult to hear constantly that argument—"Well, maybe we don't have enough assets."

I haven't the faintest idea, couldn't even postulate on how much more it cost the U.S. Government and the taxpayers for these half million deaths and lost earnings capacity, welfare, which may have had to have been paid afterwards, social security benefits and the likes of the people killed than it would have cost to check all these background forms that might have to be filled out if there was a waiting period and some kind of background check.

I am going to congratulate you for your courage. Mrs. Brady, you have been here before. I am sure that you are frustrated. I am sure that you feel that there are a lot of good people in this country whose will is being thwarted by a small but significant minority.

I feel the same way. Mr. Nilsson, you have lost a friend. I have lost friends. Many of us have been touched with this crime. And I don't know, I really don't know what to do about it anymore. I am almost at a lost. Unless this Congress can throw off the yoke of the NRA, which most of Americans don't subscribe to anyway, over 96 percent of Americans don't, then I don't know how we are ever going to pass this legislation, and I am curious how you think we are going to generate the kind of support we need.

Are we going to be able to get good people out there once and for all to wake up and write letters or do they have to wait around until one of their family members gets maimed or killed. I don't know. I am as frustrated as you are.

Mr. NILSSON. Certainly. I am——

Mr. LAWRENCE SMITH. Anybody that can make an album called "Nilsson Shmilsson," has got to be one of the better people. I have it, too.

Mr. NILSSON. I like the name, "Mr. Smith Goes to Washington." I am as frustrated as anyone when I hear the talk about what does it cost. Yes, it will cost something, but what is a human life worth? Twenty-two thousand a year is—it can't cost that much if you pro rate or amortize that cost in terms of saving those lives and the broken families.

I also had a family member commit suicide with a handgun and two of my other friends also died because of handguns. Accessibility of handguns is the problem. Organizations for banning them, not confiscating them, banning the future manufacturers, interstate transportation, importation of guns and their parts, specifically plastic guns we talked about earlier, Glock 17's, which have no purpose on earth than to take human life.

How are we going to get it done? We do write letters and talk to each other. I think the best way is to expose the four people here before us and the rest of the country and see what they see when they listen to that lecture.

Mr. LAWRENCE SMITH. It is interesting, Mr. Knox, was using this research brief and my colleague from Florida, Mr. McCollum, was also making reference to it. It is interesting if you read what is put in here, for instance, only about—"Only about one-sixth of the gun-owning felons obtain their most recent handguns through a customary retail transaction involving a licensed firearm dealer. The remainder, 5 out of 6, obtain them via informal off-the-record transactions involving friends or associates."

Mr. LAWRENCE SMITH. Number one, they say, therefore, you shouldn't have them because it doesn't prevent that. Of course, that is one-sixth of an enormous amount of people. Those one-sixth taken out of the equation would reduce to some degree the amount of deaths.

Secondarily, it says the means of acquisition from these informal sources include cash purchases, swaps, trades, borrowing, renting, and often theft. The criminal handgun market is dominated by informal handgun transactions.

Fifth, a mechanism of supply—he relates this as the reason you should not have any laws relating to handguns, because they don't address the problem of criminals. Yet, without any laws, you have a significant proliferation. With the proliferation has come theft as

a means of dealing with the black market. The theft is from the legitimate market, either dealers or owners in their own homes into the illicit market. So what he does not tell you in this paper that he cites as a reason for not wanting to vote for this bill is that there is a very good reason to have laws and that is to prevent proliferation altogether so that the amount of illicit transactions, theft transfers, is also reduced.

You sat here and heard it. You can't get a straight answer. What would you rather face down, the barrel of a six gun or a machine gun? He didn't answer you. I know what the answer is to me. I know what any police officer is going to tell you. That is what you are dealing with. We just have to have the good people of this country—I don't think anybody has traveled as much as Mrs. Brady in the last few years doing this—again, to wake up. I don't know.

Mrs. Brady could chop herself into 100 pieces and send them out through the countryside stumping for this. I don't know how much difference it would make.

Mrs. BRADY. We are going to keep doing it.

Mr. LAWRENCE SMITH. We need to. There is a conscience out there somewhere. Something is going to happen 1 day that will touch that nerve. You would have thought the incident involving your husband and the President would have been one such incident, but it isn't—or Kennedy's assassination or anything for guns in general, but certainly for the specifics of the proliferation of handguns.

It strikes me as so illogical for the American people, looking at the statistics around the world and then not wanting to do anything about it or at least from their lack of getting into the fight, appearing as if they don't want to do anything about it.

I intend to vote for this. I have introduced my own bill banning the Saturday night special by having the Secretary of Treasury have the right to refer the sale of any weapon that he deems to be inappropriate. I just don't know what else we can continue to do to motivate people, but we are going to keep trying. I commend you for what you have done so far.

The chairman of this subcommittee is to be commended. He is going to keep bringing them up also and we will keep chipping away until such time as we are able to do it. While it was very nice of those gentlemen to compliment us on the machine gun amendment for allowing more machine guns, the reality is while those were, in fact, registered because they were manufactured, many of them haven't been sold.

If they are, that is the end of it. That is the difference. The law had a significant capability. Because this subcommittee tries to be reasonable, which these gentlemen have never seen, by the way, a law that they thought was reasonable, they will never come in and say anything we were doing was valid.

In response to the gentleman from Kentucky, they said the key word was reasonable. Nothing to them is reasonable, except their position.

So we attempted to allow for what was in the manufacturing pipeline to be finalized in deference to people in general. I am surprised that they were so willing to use that as a weapon. After all,

the people who manufactured those machine guns are generally the biggest supporters and money suppliers to the NRA. They should have been very grateful for what we did to be reasonable.

Thank you, Mr. Chairman.

Mr. HUGHES. Thank you.

The gentleman from Pennsylvania.

Mr. GEKAS. I thank the chairman.

When you were reviewing the chronology of the Hinckley situation, one thing popped out at me. I have been asking staff to help with this. The first thing asked on the form apparently is: what is your address? Technically, Hinckley could have nine addresses and he would not be lying if he named any one of them so long as he had an address. That takes place in the law in many different ways that you can have four different residences, six different addresses, et cetera.

It seems to me—maybe you could concur, the better question to ask in that form, and I would be willing to try to propose such a change, is where do you reside now, which is different from what is your address. I think it is different; in other words, to try to pinpoint where that person is residing at the time he fills out that form, not merely a technical question of what is your address.

Do you concur, perhaps, we ought to be looking at these very legalistic possibilities even in the form that is filled out?

Mrs. BRADY. I believe in anything that will make it more difficult for a criminal to be able to purchase a handgun.

Mr. GEKAS. The other thing that has been said—I don't think it has to be said to you, but I want to say it just for my own purposes—those of us who cast doubts from time to time on legislation such as this because of other deep-seated feelings that we have are no less interested—I know you know—I hope you know, I ask you whether you realize it—are just as deeply interested in tough law enforcement and the sympathy with the tough fight of our law enforcement agencies that is on their hands on a daily basis, and the fact we might differ on the way to accomplish all of the joint aims does not mean that we are insensitive to your particular point of view.

I hope that that is so.

Mrs. BRADY. With all due respect, I would ask if you would read over law enforcement's testimony this morning. I think they gave a very——

Mr. GEKAS. I am familiar with that, yes.

Mrs. BRADY [continuing]. A very good argument for this bill.

Mr. GEKAS. I have no further questions.

Mr. HUGHES. I think the point that has been made about the address of John Hinckley, Lubbock, Texas, is that if his name had popped up and a record check was made of his address by the Lubbock, Texas, police, by the cars in the neighborhood, to check it out to see whether he lived there, that might have triggered an investigation.

Mr. GEKAS. Would the chairman yield?

Mr. HUGHES. Yes, sure.

Mr. GEKAS. I agree. I am not denegrating the propriety of an investigation. What I am saying is to be able to hold him, to hold someone to a falsification charge that it would be better able to be

done if you asked where he lived at the precise moment that he files that application, not what is his address.

Mr. HUGHES. That might very well be. I say in this specific instance the question is whether or not that might have precipitated an investigation, that they would check to see whether he lived there. I don't know. I am going to try to find out a little more about the neighborhood where he lived. It might be an area where the police knew that youngsters going to college lived there.

That might have, itself, triggered some question as to whether some investigation should be conducted.

Certainly, if you don't require that kind of check, there is no way that the police can know who is buying their weapons. In fact, the testimony here today was rather clear. They responded to my question—I don't know whether you were here or not—as to whether or not you think we should find out whether convicted criminals, people with mental histories were buying a handgun. The answer, without exception, was, no. Now, I would like to see any public official try to justify that response.

The gentleman from Kentucky?

Mr. MAZZOLI. I thank the chairman. I appreciate what he said. I think the testimony of the panel of the coalition and the NRA, I think, illustrates, again, the tremendous fissure between their thinking and the thinking of many of us on the panel. If they are in good faith, there is nothing duplicitous about their thinking. There is nothing essentially mean-spirited about it. It is just that they simply have a different thinking process when it comes to the question of either handgun controls or any kind of inhibition on personal liberty.

I have sat here and heard civil liberties organizations speak the very same language on bills we have and other kinds of law enforcement. I was as amazed by their statements as I have been amazed by the statements of these people. But they are made in good faith. They have to be given credence because they are. To that extent, Mrs. Brady, you, again, as everybody says, have been very courageous. You have traveled extensively and worked quite ardently with the various law enforcement groups.

Could you give me some idea on your part how you see the men and women on the line, what their reaction is? Would they, in fact, rather have a room full of gun-toting people? Would they rather have everybody in a domestic dispute have a gun?

Would they rather confront at a street corner a bunch of kids or grown ups, everybody having a gun? Tell me what you have found yourself?

Mrs. BRADY. I have found almost without exception, as I traveled throughout the country, certainly amongst law enforcement communities and amongst civilians that there is support for ascertaining which hands handguns fall into. Handguns should be placed in responsible hands only.

I cannot imagine finding even 10 police officers in this country who would feel safer if an entire community were armed. It is not in the realm of possibility that you could find one.

Mr. MAZZOLI. We used the term, "logic." Sometimes you have arguments, battles of experts, the experts say X is Y. Others say Y is X. You get so confused. You say—my gracious—one guy saying it is

this; one person saying it is that. But sometimes you have to rely upon good old-fashioned common sense and logic. All of the data notwithstanding, it just seems to me logically, no police officer would want to have an armed community.

Logically, you would say the fewer the weapons, the less likelihood that individual officer, man or woman, is likely to be hurt and more apt to control the situation. Is that not logical?

Mrs. BRADY. Absolutely.

Mr. MAZZOLI. Mr. Nilsson, you are an eminent person. You have traveled, seen a lot of people in a lot of settings. Maybe you could tell me from the perspective of the man on the street how you see this? Do you believe the law enforcement community would rather have an armed populace to deal with?

Mr. NILSSON. It is absurd. I talked to law enforcement agencies, offices. It is totally absurd.

Mr. MAZZOLI. Let me ask you this: we get back to the idea of talking.

Mr. NILSSON. Excuse me. I did live in England for a while, so I am familiar there.

Mr. MAZZOLI. With the situation where you do not have handguns, do you believe the data they indicate, which is to say the leadership of the law enforcement group is misrepresenting the position or doesn't understand or doesn't seek out the actual position of the people in the trenches, the people on the street?

Do you believe that?

Mrs. BRADY. I don't believe it for one second. I happen to have been in Mobile, Alabama last summer. I was not in the room, because I am not a police officer. But I know that each and every member of the Fraternal Order of Police present in Mobile voted individually on a resolution in support of this bill. That is a close as possible to getting an accurate representation of your own membership.

Mr. MAZZOLI. It seems to me the conversations—I certainly have not had the extensive conversations you had with the law enforcement people. What conversations I have had have either been in this setting or back home. Once again, those I have had certainly does not lend any strength to the argument that the law enforcement people would feel more comfortable and that they were actually protected because everybody on the street corner has a gun.

Therefore, if theirs gets taken, somebody else will intervene. I think that stretches credulity to the breaking point, at least it does for me. I accept the arguments are made in good faith. I sincerely think they believe it. It just seems in the world in which most of us live, that argument does not seem to hold water.

I don't want to proceed too much on this thing, because I believe it has been a long, long day for all of us. Would it be your position, Mrs. Brady, based upon your observation and consultations with the groups that are involved that it would be theirs as well, that even if this bill were not to solve the problem, because the tendency which we also talked about in my office is that the proponents say it is going to solve all 500,000 crimes of passion or anger and the opponents say if it passes, it will not solve a single one.

Logic, once again, tells me that somewhere in the middle is where you are probably going to have it. They are not going to

solve the whole arena, but it cannot help but help. Is that your belief?

Mrs. BRADY. Exactly. As I have spoken throughout the country, I have said this is not a panacea for violent crime. This is a commonsense measure which will help save some lives, some suicides—not all but some crimes of passion, and stop, not all but some criminals. I have a very special feeling about life after what happened in 1981.

I never knew how valuable it was to me or to my loved ones. Every time I hear of a child in Washington or a husband in New York being shot down, my heart really goes out to them more now than it did before 1981. I think we can do something that is going to help save lives. It will not stop all violent crime but, it can help save lives.

Mr. MAZZOLI. Two final points. Mr. Chairman, since this article that people referred to, the National Institute of Justice Research Group indicates a good number of the weapons, perhaps five/sixths are stolen, are in off-the-record transactions involving friends and associates, it could be maybe we ought to think at times of, perhaps in this bill, but maybe not, something to enhance the penalties for theft of weapons or something of that nature, too.

It also leads me to think if you were to start out with a modest 7-day waiting period, you might keep some of the tracking even in stolen weapons down, because if you diminished the number of these weapons that get somehow into the flow, you might diminish the pool of them that wind up in bedrooms, downstairs basements, garages that are then picked up or stolen and then used wrongfully or incorrectly.

It seems to me the two might also be connected. So if you get at the one, you may actually be nibbling away at the others. So, I think perhaps from that standpoint, the movement of some kind of bill like this might also deal with that other supply.

Lastly, let me say we admire your courage. It is not easy to talk about this. It is not easy to spend the number of hours in this room. I know there are many a lonely motel and overcrowded airport and delayed flight. It has to be a very tough arduous task you have taken upon yourself. Thank God, there are people willing to do that. The same to you, Mr. Nilsson.

You could be luxuriating in sunny California somewhere. We appreciate that. We value that. Thank you.

Mr. HUGHES. Thank you, Mr. Nilsson, for coming such a distance to be with us. We appreciate your testimony. Thank you, again, Mrs. Brady. Say hello to Jim Brady for us. I know he must be as proud of you as millions and millions of Americans are in the country. Thank you.

Mr. NILSSON. Keep up the good work.

Mr. HUGHES. That seems to conclude the hearing for today.

[Whereupon, at 4:50 p.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIXES

Appendix 1.—Prepared Statement of David Prislan, Electronic Technician, Eastland, OH

1560 E. 337th St.
Eastlake, Ohio 44094

Nov. 24, 1987

Crime Sub-Comm.
207 Cannon House Office Bldg.
Wasington, DC 20515

Gentlemen:

Thank you Committee Chairman Hughes and committee members for allowing me to speak here today.

My name is David Prislan. I am 30 years old and am employed as an electronic technician. For eight years previous, I was a registered X-Ray technician and worked in emergency rooms and I consider firearms my hobby.

The comments I will make today are my own personal views. To start out with, will the chief law enforcement officer be required to do the background check or provide an exemption certificate whether he or she wants to or not. This will be an added burden on the police force in general. Additionally, nowhere in this legislation is there a price stipulated for the background check. Will it be done for free or will there be a nationwide standard fee or will each community be able to set any fee it wants?

What is the purpose of providing information regarding the make, model and serial number of the handgun to be transferred? This appears to be a form of gun registration, in that even though the sworn statement is to be destroyed within 60 days after the transfer, this information will end up in a computer file somewhere at the federal, state or local level.

Additionally, this bill appears to provide a precedent for similar background checks, for fifles and shot gun purchases.

It appears this legislation would all but destroy most handgun sales at gun shows and between individuals due to the inconvenience which arises if the transferor and transferee do not reside within a reasonable distance of each other.

I am puzzled at how this legislation will stop criminals from obtaining handguns. Are criminals not criminals because they break the law?

No mention ahs been made as to thow this law would be enforced. And lastly, the definition "handgun" appears to be vague as defined in the legislation.

On a constructive note, I do find the idea of a background check on the individual person a good idea, but suggest that it be done on the federal level possibly issued in a form similar to a drivers license which could be valid for a specified length of time.

Thank you.

David Prislan

David Prislan

Appendix 2.—Prepared Statement of David J. Steinberg, Executive Director, National Council for a Responsible Firearms Policy, Inc.

National Council for a Responsible Firearms Policy, Inc.

7216 Stafford Road, Alexandria, Virginia 22307 (703) 765-2472

Statement submitted by David J. Steinberg, Executive Director, National Council for a Responsible Firearms Policy, to the House Committee on Judiciary subcommittee on crime in hearings on bills concerning firearms December 1987

The National Council for a Responsible Firearms Policy, formed in 1967, has for the past 20 years urged firearms policies (at all levels of government) which we believe to be fully responsive to the imperatives of public safety and fully respectful of the rights and privileges of all Americans, those who own guns and those who do not. In conformity with these standards, we support the firearms bills now before your committee concerning (1) the need for improved security devices for detection of nonmetal firearms, and (2) prohibiting the manufacture, transfer and possession of firearms not readily detectable by inspection equipment available to U.S. airports and other places where security protection is vital to the national and overall public interest. We endorse the essentials of such proposals to the extent that they apply to personal firearms, as distinct from firearms designed for the police or the military services.

Our Council has never proposed, or expressed support for, the banning of handguns or other firearms, except for extraordinarily small handguns if an appropriate definition could be found that protected the legitimate interests of law-abiding gun-owners as well as the overall public interest. Our support for the bills now before your committee is responsive to a special danger to public safety, indeed to national security, and is contingent on the lack of security devices capable of readily detecting firearms made, to a significant degree, of plastic or other nonmetal material.

We have no illusions about how far such legislation can go toward stopping, deterring or reducing terrorism. But we believe that whatever contribution it makes toward these objectives is a rational, reasonable and responsible contribution to public safety and, if properly administered, will not in any way impair the rights and privileges of legitimate, law-abiding and responsible gun-owners.

We also support the bill that would require a waiting period before private acquisition of a handgun. We do so, however, with misgivings over the very limited scope of the bill -- the isolation of this proposal from the rest of what a coherent, responsible firearms policy (even a coherent, responsible handgun policy per se) ought to be. Even though enactment of so limited a proposal is highly unlikely for at least several more years, we should be aiming to secure all that the public interest demands, not just what now may seem more realistic. We should not compromise the imperatives of the public interest before the political battle is even joined.

Appendix 3.—Prepared Statement of Ronald DeAngelo, Legislative Chairman, Police Association of the District of Columbia, on Behalf of the National Association of Police Organizations

President
ROBERT SCULLY
Vice President, Detroit Police Officers Assn
Detroit, MI

Executive Vice President
WILLIAM PATTISON
President, Superior Officers Assn of Nassau County
Nassau County, NY

Treasurer
EDWARD MAHER
Director, Suffolk County Superior Officers Association
Suffolk County, NY

Recording Secretary
OWEN J K HOLT
President, Central Coast Chapter, PORAC
San Jose, CA

Sgt -at-Arms
MARTIN McKEAN
Member of Board
Northern Ohio PBA
Middleburg Hts , OH

Executive Secretary
MICHAEL G PATCHEL
President, Phoenix Law Enforcement Association
Phoenix AZ

Area Vice Presidents

GEORGE V ALIANO
Los Angeles, CA

THOMAS SCOTTO
New York, NY

RONALD CANNATELLA
New Orleans, LA

LARRY WATTS
Houston, TX

JERRY COZZEN
Anchorage, AK

FRANK L DALEY
Hayward CA

SANDRA J GRACE
So Dartmouth, MA

EDWARD W GUZDEK
Amherst, NY

FLOYD HOLLOWAY
New York, NY

PETER LAWER
Middleburg Hts , OH

WAYNE McMORROW
Nassau County, NY

STERLING EPPS
Washington D C

STANLEY G PRUE
Syracuse, NY

TY REIO
San Diego, CA

PETER J. REILLY
Hempstead, NY

TOM SCHNEIDER
Detroit, MI

CHARLES SHINE
St Louis, MO

MONICA SMITH
Dallas, TX

JOHN STORM
Detroit, MI

Legislative Counsels
JULES BERNSTEIN
LINDA LIPSETT

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Testimony of

Ronald DeAngelo
National Association of Police Organizations

Before the House Subcommittee on Crime
Committee on the Judiciary

February 24, 1988

Office of the President
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Testimony of

Ronald DeAngelo
National Association of Police Organizations

Before the House Subcommittee on Crime
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February 24, 1988

My name is Ronald DeAngelo. I am Legislative Chairman of the Police Association of the District of Columbia which is a member of the National Association of Police Organizations, (NAPO), representing more than 75,000 working and retired police officers throughout the United States. I am a working police officer.

Today, as a representative of NAPO, I am pleased to appear before this Subcommittee to reaffirm NAPO's commitment to the passage of H.R. 155 and H.R. 975, bills to provide a waiting period for the purchase of a handgun. For the record let me state that NAPO unanimously endorsed a proposal for a seven-day waiting period at its 1987 convention.

We believe that these bills are common sense pieces of legislation. The necessity for the enactment of a waiting period bill should be self-evident to all. The sale of handguns to convicted criminals, drug abusers, the mentally deranged and incompetent, and others who must not be allowed to purchase guns, is a national problem of mounting proportions.

The annual national fatality rate of over 20,000 through the misuse of handguns, which includes many police officers, and

the countless non-fatal injuries these weapons cause, make prompt congressional action imperative.

Wherever such waiting-period laws have been adopted on a state level, they have proven themselves extremely effective in preventing handgun violence.

As I am sure the Subcommittee is aware, since 1975, the purchase of handguns has been prohibited entirely in the District of Columbia. In neighboring Maryland, a seven-day waiting period statute has been on the books since 1966. Through the process which requires verification of a handgun purchaser's state and federal criminal record, as well as any records of drug or alcohol addiction and mental incompetence, approximately 750 individuals were prohibited from purchasing handguns from dealers in 1987.

Virginia likewise has a waiting period law for the purchase of handguns, requiring a 72-hour wait.

Other states and local jurisdictions have various waiting period laws as well. According to the Office of the Attorney General of California, in 1981, 1,200 would-be purchasers of handguns were prevented from buying weapons by reason of that state's 15-day waiting period law.

But not all states have such laws. So, for example, 90% of all handguns used for crimes committed in New York State, which has strong gun control laws, are purchased outside of New York. NAPO believes that the need for national legislation covering this gap in state law is critical in helping to establish national uniformity and in succeeding in eliminating "forum-shopping" by

criminals in connection with handgun purchases. It will also strengthen many existing state laws that provide waiting periods but are more limited in their application. So, for example, under H.R. 975, federal law would apply to all sales of handguns, and not those just by dealers, as is true for the laws of many states.

In either case, aside from keeping criminals from buying handguns, both of the bills would also create a "cooling-off" period for those who would be entitled to buy a handgun, but who seek a weapon in the heat of passion, or in the midst of domestic strife. The opportunity to reconsider violent intentions, which would clearly flow from a seven-day waiting period, seems socially desirable and would have no significant "down-side."

NAPO is firmly of the view that enactment of a waiting period law is urgently needed to protect the public as well as the law enforcement community. It would give local police departments the opportunity to determine the qualifications of potential gun purchasers, and it would help in assuring that those who are not entitled to buy handguns are prevented from obtaining them.

I thank you for your kind patience and attention.

Appendix 4.—Prepared Statement of Sterling Epps, Legislative Co-Chairman, Federal Law Enforcement Officers Association

Federal Law Enforcement Officers Association

Not here

TESTIMONY BY

SA STERLING EPPS, FLEOA LEGISLATIVE CO-CHAIRMAN.

ON

H.R. 975 -- A BILLS TO PROVIDE A WAITING PERIOD BEFORE THE SALE,

DELIVERY, OR TRANSFER OF A HANDGUNS,

AND

H.R. 155 -- A BILL TO BAN THE MANUFACTURE, SALE AND IMPORTATION

OF NOT READILY DETECTABLE FIREARMS,

BEFORE

THE HOUSE SUBCOMMITTEE ON CRIME

ON

FEBRUARY 24, 1988 AT 10:00 AM.

ROOM B352 RAYBURN HOUSE OFFICE BUILDING.

"A Professional Association for Federal Law Enforcement Officers"

Mr. Chairman, Members of the Subcommittee, Ladies and Gentlemen:

It is indeed a pleasure to be here today to discuss the critical need for a "cooling off" period prior to the sale, delivery or transfer of a handgun. The Federal Law Enforcement Officers Association believes that H.R. 975 possesses the best of both worlds. It permits gun owners to purchase handguns for legitimate sporting purposes, and it permits law enforcement organizations to check a purchaser's background.

By providing a waiting period between the buying and the taking possession of a handgun, H.R.975 could significantly curtail family violence as well as violent impulse crimes between strangers. In our opinion the ban poses no problem to the handgun purchaser who chooses to spend a substantial sum on a finely made firearm. The sportsman, collector, hunter, or law enforcement and security professional who uses firearms as part of his/her employment is likely to wait before taking possession of the firearm anyway. It is our feeling that this purchaser will be prepared to wait just as he/she would wait when ordering a new car, buying a major appliance, or purchasing a house.
H.R 975, however, hopefully would have a significant impact on the market for inexpensive weapons -- "Saturday Night Specials ". In effecting this market it achieves an important purpose - that is, (1) it prevents the enraged purchaser from buying a gun in

the heat of anger and shooting someone; (2) it prevents the purchase of a weapon for the immediate commission of a robbery or other crime; and (3) it prevents individuals with mental health problems from purchasing a weapon to commit suicide.

It is interesting to note that in the 19 years that the state of New Jersey utilized background checks to qualify handgun purchasers over 10,000 convicted felons have been caught attempting to purchase handguns. These statistics released by the IACP mean that over 500 felons per year - one plus per day- have been prevented from buying weapons.

As for firearms that are not readily detectable, the Federal Law Enforcement Officers Association recognizes the answer to the problem of undetectable weapons lies in the development of better detection equipment. However, until such time as technology allows public safety officials to identify plastic and other non-metallic weapons, parts and ammunition, H.R.155 is needed to protect both the public and the public safety officer.

Banning the manufacture, sale and importation of firearms that are not readily detectable is needed not as substitute for research and improvement in the design of detection equipment, but as an interim measure while such technologies are being perfected.

Thank you and I will be pleased to answer any questions you may have at this time.

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Appendix 5.—Prepared Statement of Robert D. Gordon, Secretary/Treasurer, United Federation of Police

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WILLIAM DUTKA
Awards/Benefit Programs/Organizing
PAUL HARTMAN
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Insurance Consultant
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TESTIMONY

ROBERT D. GORDON

UNITED FEDERATION OF POLICE

H.R. 975 AND S465

SUBCOMMITTEE ON CRIME

WILLIAM HUGHES, CHAIRMAN

FEBRUARY 1988

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MR. CHAIRMAN, MY NAME IS ROBERT GORDON AND I AM THE SECRETARY/TREASURER OF THE UNITED FEDERATION OF POLICE WHICH REPRESENTS OVER 30,000 LAW ENFORCEMENT OFFICERS NATIONWIDE.

WE WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY TO PRESENT TESTIMONY IN SUPPORT OF HR975. WE HAVE, IN THE PAST, SUPPORTED GUN LEGISLATION THAT WOULD PROVIDE PROTECTION TO OUR NATION'S LAW ENFORCEMENT OFFICERS IN THEIR DAILY ENCOUNTER WITH LIFE-THREATENING SITUATIONS.

HR975, IF PASSED BY THE CONGRESS ALONG WITH THE SENATE, S465, WOULD, IN OUR ESTIMATION, GO A LONG WAY TOWARD SAVING THE LIVES OF POLICE OFFICERS. THE OPPONENTS OF HR975 WHO CLAIM THAT ANY AMOUNT OF WAITING PERIOD WOULD NOT PREVENT CRIMINALS FROM OBTAINING A WEAPON, JUST DOES NOT MAKE SENSE.

AS PREVIOUSLY STATED, IF HR975 PASSES AND IF IT COULD PREVENT THE LOSS OF THE LIFE OF EVEN ONE PERSON, THEN THAT SHORT WAITING PERIOD OF SEVEN DAYS WOULD INDEED BE A SIMPLE PRICE TO PAY. AT LEAST WITH A WAITING PERIOD, LAW ENFORCEMENT AGENCIES WOULD BE GIVEN THE OPPORTUNITY TO CHECK THE BACKGROUND OF AN INDIVIDUAL WHO WAS OBTAINING A WEAPON. SELF-INTEREST GROUPS SUCH AS THE NRA WHO HAS, IN OUR ESTIMATION, BEEN CREATING CHAOS BETWEEN LAW ENFORCEMENT AND GUN LOBBYING GROUPS HAS TO CONSIDER THE LIFE OF AN INDIVIDUAL COMPARED TO A MERE SEVEN-DAY WAITING PERIOD.

MR. CHAIRMAN, WE NEED ONLY TO LOOK AT THE HEADLINES OF OUR NATION'S NEWSPAPERS AND TUNE INTO ANY TV NEWS BROADCAST TO SEE

CITIZENS BEING GUNNED DOWN AS WELL AS LAW ENFORCEMENT OFFICERS ON A DAILY BASIS BY THE CRIMINAL ELEMENT WHO SEEM TO HAVE THE SUPPORT OF THE NRA IN THEIR CONSTANT GUN LEGILSATION OPPOSITION.

OUR NATION IS ATTEMPTING TO HAVE A WORLD-WIDE BAN ON ARMS. WE BELIEVE ARMS CONTROL SHOULD BEGIN RIGHT HERE IN THE UNITED STATES.

WE WOULD LIKE TO THANK YOU, MR. CHAIRMAN, AND SENATOR METZEMBAUM FOR INTRODUCING THIS LEGISLATION AND WE PRAY THAT THIS LEGISLATION WILL INDEED BECOME LAW.

SINCERELY,

Robert D Gordon

ROBERT D. GORDON
SECRETARY/TREASURER

RDG/lp

Appendix 6.—Letter to Congressman Hughes, February 22, 1988, and Prepared Statement of Stephen P. Holbrook, Ph.D., Attorney at Law

STEPHEN P. HALBROOK, PH.D.
ATTORNEY AND COUNSELLOR AT LAW
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February 22, 1988

Congressman Bill Hughes, Chairman
Subcommittee on Crime
Judiciary Committee
U.S. House of Representatives
207 Cannon House Office Bldg.
Washington, D.C. 20515

Attention: Eric Sterling

Re: H.R. 975, H.R. 155
Hearing date February 24, 1988

Dear Congressman Hughes:

I hereby submit for inclusion in the record of the above hearing and distribution to subcommittee members twelve copies of my comments, which are entitled: "Prior Restraint, Police Surveillance, and the Purchase of Constitutionally Protected Arms: Testimony on H.R. 155 and H.R. 975."

Thank you for your attention to this matter.

Sincerely,

Stephen P. Halbrook

Stephen P. Halbrook

SPH:nlc

Enclosure:

PRIOR RESTRAINT, POLICE SURVEILLANCE, AND THE PURCHASE OF CONSTITUTIONALLY PROTECTED ARMS:

TESTIMONY ON H.R. 155 AND H.R. 975

by

Stephen P. Halbrook, Ph.D., J.D.*

Subcommittee on Crime

House Committee on the Judiciary

February 24, 1988

---

*Attorney at Law, Fairfax, Virginia; Ph.D., Florida State University; J.D., Georgetown University. Former philosophy professor, Tuskegee Institute, Howard University, and George Mason University. Author of The Fourteenth Amendment and the Right to Keep and Bear Arms, The Right to Keep and Bear Arms: Report of the Subcommittee on the Constitution, Senate Judiciary Committee, 97th Cong., 2d Sess., 68-82 (1982); Tort Liability for the Manufacture, Sale, and Ownership of Handguns? 6 HAMLINE UNIV. LAW REVIEW 351-382 (1983); THAT EVERY MAN BE ARMED: THE EVOLUTION OF A CONSTITUTIONAL RIGHT (University of New Mexico Press 1984); To Keep and Bear Their Private Arms: The Adoption of the Second Amendment, 1787-1791, 10 Northern Kentucky Law Review 13-39 (1982), reprinted in 131 CONG. REC., 99th Cong., 1st Sess., S9105-9111 (July 9, 1985); The Right to Bear Arms in the First State Bills of Rights, 10 VERMONT LAW REVIEW 255-320 (1985); and Bear Arms and Go To Jail, COMMUNITY FORUMS ON THE CONSTITUTION, 14 pp. (American Bar Association 1987); and Firearms, the Fourth Amendment, and Air Carrier Security, 52 JOURNAL OF AIR LAW AND COMMERCE 585-680 (1987).

H.R. 155 proposes extensive paperwork, police scrutiny, and a 15 day waiting period for purchase of a handgun. A dealer must send a sworn statement by the transferee to the chief law enforcement officer of the transferee's place of residence requesting the officer to confirm the residence, examine criminal and mental records, and report any such records to the local dealer. In our system of federalism, the local officer has no legal obligation to conduct such searches and make a report, and the state or locality has no duty to finance these expensive fishing expeditions. The sworn statement also must be sent to the Federal Bureau of Investigation, which must examine all "Federal official records" and report back to the dealer. Given the large volume of handgun sales, this routine spying on citizens will significantly distract from law enforcement efforts to combat actual crime.

If the dealer receives a report that receipt of the handgun would violate federal, state, or local law, he must immediately communicate "all information" he has about the transferee to local law enforcement agencies, the FBI, and the Secretary of the Treasury. Given the existence of inaccurate and incomplete criminal records, law-abiding citizens will find themselves being arrested for felonious attempts to purchase firearms. Moreover, federal law enforcement will be called

upon to enforce every petty local ordinance on the books, many of which are void as being preempted by state law or in violation of the right to keep arms under the state bills of rights. It is noteworthy that all of the above law enforcement agencies are not routinely brought into investigation of the serious and violent felonies which are constantly being committed.

H.R. 155 is calculated to discourage handgun sales and ownership by creating mountains of paperwork and police surveillance of the general citizenry. At the same time, it would divert scarce police resources away from investigation of and action against violent crime, and toward routine investigation of the people at large. H.R. 155 would allow registration of all persons who exercise the right under the federal and state bills of rights to keep arms. It provides no exception for emergencies in which the red tape and waiting period could be waived on behalf a person under threat of deadly attack.

H.R. 975 would require a seven day waiting period before one may exercise the constitutional rights to keep and bear arms and to protect life. It requires that police be notified of the names and other personal information of American citizens who would exercise the rights guaranteed by the Second Amendment. A person who "requires access to a handgun because

of a threat to the life" of such person would be exempt from the waiting period only if such person could convince the chief law enforcement officer of his place of residence to give him a certificate.

The law enforcement officer may arbitrarily refuse to issue a certificate to a person who received death threats, for H.R. 975 provides that "nothing in this subsection shall be interpreted to require any action by a chief law enforcement officer which is not otherwise required." Moreover, no sanctions exist to require law enforcement officers to destroy within 60 days personal information about applicants. This information includes everything necessary to set up a firearm registration system: description and serial number of the handgun, and name, address, and birthdate of the transferee. The local chief law enforcement officer would have sole discretion to determine whether receipt or possession of the handgun would violate federal law or the state or local law of the residence of the transferee. No provision is made for transferees with dual residences.

This legislation is a massive surveillance system in which those who exercise constitutional rights are subjected to police scrutiny. Neighbors, friends, and collectors could not trade handguns without informing the police first. Bill of

rights freedoms are priceless rights, suspension of which for a week or fifteen days is irreparable harm and not a "slight inconvenience." The proposed bills are no different than requiring a waiting period and police background checks to exercise the rights of free speech and press, assembly, and petition, under the guise that subversion, riots, and criminal conspiracies will be stamped out. They recall laws which required that membership lists of controversial groups be turned in to authorities, in order that the right of association not lead to Communist infiltration.

These bills create a presumption that each and every American citizen is a convicted felon, narcotics addict, or other prohibited person. They would impose a chilling effect and prior restraint on exercise of constitutional rights, with the police acting as the board of censors. Requiring a citizen to wait a week or fifteen days to purchase a handgun pending police approval is no different than prohibiting the citizen from publishing an article in or buying a newspaper or joining a labor union for a week or fifteen days, so that censors and political police may review the proposed exercise of a constitutional right. By the same logic, the police could conduct warrantless searches and seizures of our persons and houses for a week or for fifteen days, and arrest all persons

in possession of incriminating evidence.

The police are no more entitled to know what firearms are possessed by citizens than they are entitled to know what books citizens read. Proponents may as well argue that it would be only a "slight inconvenience" to allow police to conduct routine wiretaps and searches of persons, autos, and homes, in order that would-be criminals are detected.

The Supreme Court has recently denied that some Bill of Rights freedoms "are in some way less 'fundamental' than" others. "Each establishes a norm of conduct which the Federal Government is bound to honor -- to no greater or lesser extent than any other inscribed in the Constitution. Moreover, we know of no principled basis on which to create a hierarchy of constitutional values . . . ."[1] The proposed waiting period, to quote an earlier opinion, "appears on its face to be within a specific prohibition of the Constitution, such as those of the first ten amendments . . . ."[2] Misuse of the press or of arms may be punished, but Congress may pass no law restraining exercise of these rights. After quoting the First Amendment, the Court has referred to "the equally unqualified command of the Second Amendment: 'the right of the people to keep and bear arms shall not be infringed.'"[3] Moreover, these arms include pistols and revolvers as well as rifles and shotguns,

just as pamphlets and leaflets are just as protected as newspapers and periodicals.[4]

The Supreme Court has stated: "But when we do have evidence that a particular law would have offended the Framers, we have not hesitated to invalidate it on that ground alone. Prior restraints, for instance, clearly strike to the core of the Framers' concerns, leading this Court to treat them as particularly suspect."[5] There can be no doubt how the Framers of the Bill of Rights would have regarded waiting periods for exercise of and routine police surveillance of constitutional rights.

Second Amendment rights were enumerated because the Framers recalled how the British sought to deprive the colonists of their private arms. Just as the British troops were about to begin the occupation of Boston in 1768, a patriot (possibly Samuel Adams) wrote:

> It is reported that the Governor has said, that he has Three Things in Command from the Ministry, more grevious to the People, than any Thing hitherto made known. It is conjectured 1st, that the Inhabitants of this Province are to be disarmed. 2d. The Province to be governed by Martial Law. And 3d, that a Number of Gentlemen who have exerted themselves in the Cause of their Country, are to be seized and sent to Great-Britain.
>
> Unhappy America! When thy Enemies are rewarded with Honors and Riches; but thy Friends punished and ruined only for asserting thy Rights, and pleading for they Freedom.[6]

The military occupation occurred after the citizens of Boston voted in a town meeting to require all citizens to obtain arms. Samual Adams defended the right to keep arms in a 1769 article as follows:

> At the revolution [of 1689], the British constitution was again restor'd to its original principles, declared in the bill of rights; which was afterwards pass'd into a law, and stands as a bulwark to the natural rights of subjects. "To vindicate these rights, says Mr. Blackstone, when actually violated or attack'd, the subjects of England are entitled first to the regular administration and free course of justice in the courts of law--next to the right of petitioning the King and parliament for redress of grievances--and lastly, to the right of having and using arms for self-preservation and defence." These he calls "auxiliary subordinate rights, which serve principally as barriers to protect and maintain inviolate the three great and primary rights of personal security, personal liberty and private property": And that of having arms for their defense he tells us is "a public allowance, under due restrictions, of the natural right of resistance and self preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression."--How little do those persons attend to the rights of the constitution, if they know anything about them, who find fault with a late vote of this town, calling upon the inhabitants to provide themselves with arms for their defence at any time; but more especially, when they had reason to fear, there would be a necessity of the means of self preservation against the violence of oppression.[7]

Between 1768 and 1775, the British resorted to every possible measure to deprive the Americans of arms. Similar to the current proposed bills which seek to interfere with the acquisition of firearms, the British imposed an embargo on

shipments of arms and ammunition to the American colonies. Edmund Burke pointed out in debates in Parliament in 1775 that such injustices had been tried before on Wales:

> Sir, during that state of things, parliament was not idle. They attempted to subdue the fierce spirit of the Welsh by all sorts of rigorous laws. They prohibibited by statute the sending all sorts of arms into Wales, as you prohibit by proclamation (with something more of doubt on the legality) the sending arms to America. They disarmed the Welsh by statute, as you attempted, (but still with more question on the legality) to disarm New England by an instruction. They made an Act to drag offenders from Wales into England for trial, as you have done (but with more hardship) with regard to America.[8]

The Declaration of Causes of Taking Up Arms of 1775 complained that General Gage tricked the citizens of Boston into surrendering their arms (allegedly for temporary "safekeeping") with their own magistrates, and then had his Redcoats seize the arms, which included muskets, pistols, and blunderbusses.[9] Gage's disarming of the people of Boston was widely reported in colonial newspapers and clarified for all patriots Gage's tyrannical designs. For instance, the Pennsylvania Evening Post reported that "the Governor and gentlemen of Boston have agreed to open the town, on condition of the inhabitants delivering up their arms to the Selectmen."[10] A patriot wrote from Roxbury: "Gage and his troops are immured within the walls of Boston; and . . . our friends are entrapped by them:--We have some hope they will be

liberated this day; Gen. Gage has proposed, upon their surrendering their arms, that they may march out; they surrendered their arms yesterday."[11]

After collecting their arms, Gage refused to allow the people to leave Boston. It was reported from New London: "By the post, who left the head quarters at Roxbury, last Monday o'clock P.M. we learn that only two persons have been permitted to come out of Boston that day, that no more of the inhabitants would be permitted to leave the town for the present; and that on the same day a town meeting was to be held in Boston, when the inhabitants were determined to demand the arms they had deposited in the hands of the Selectmen, or have liberty to leave the town."[12]

Meanwhile British troops began plundering houses in Boston,[13] and Gage proclaimed martial law, ordering the rebels to lay down their arms.[14] The following is a typical patriot's response:

> What terms do you hold out in this gracious proclamation? . . . Now, Sir, waving all that may be said of your hypocrisy, cruelty, villanry, treachery, perfidy, falsehood, and inconsistency, are you not ashamed to throw out such an insult upon human understanding, as to bid people disarm themselves till you and your butchers murder and plunder them at pleasure! We well know you have orders to disarm us, and what the disposition of the framers of these orders is, if we may judge from the past, can be no secret.[15]

Can there be any doubt how the Framers would have reacted to a law that Americans may not purchase firearms until the authorities approve such purchase? The same newspapers which carried the above reports routinely advertised firearms for sale and made no secret that they would be used to resist oppression.[16] One of the objectives of the right to keep and bear arms as envisioned by the Framers is to hold the rulers in check--including the authorities who would decide whether firearms may be purchased under the proposed legislation.

In 1777, William Knox, Undersecretary of State in the British Colonial Office, circulated a proposal entitled "What is Fit to be Done with America?" Besides a ruling aristocracy loyal to the Crown, establishment of the Church of England, and an unlimited power to tax, Knox offered the panecea of disarming all of the people:

> The Militia Laws should be repealed & none suffered to be re-enacted, & the Arms of all the People should be taken away, & every piece of Ordnance removed into the King's Stores, nor should any Foundery or manufactuary of Arms, Gunpowder, or Warlike Stores, be ever suffered in America, nor should any Gunpowder, Lead, Arms or Ordnance be imported into it without Licence; they will have but little need of such things for the future, as the King's Troops, Ships & Forts will be sufficient to protect them from any danger.[17]

When the Constitution was proposed in 1787 without a Bill of Rights, the federalists argued that one was unnecessary,

since Congress had no enumerated power to control rights such as a free press and bearing arms. Recalling British abuses, the antifederalists demanded written guarantees. Advocates of a bill of rights opposed any requirement that persons who exercise basic freedoms must first notify the authorities. For instance, one such proponent noted: "The project of muffling the press, which was publicly vindicated in this town [Boston], so far as to compel the writers against the government, to leave their names for publication, cannot be too warmly condemned."[18] Richard Henry Lee wrote that "to preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them . . . ."[19] The Supreme Court recently noted:

> The remarks of Richard Henry Lee are typical of the rejoinders of the Antifederalists. . . . The concerns voiced by the Antifederalists led to the adoption of the Bill of Rights. . . .
>
> The fears of the Antifederalists were well founded.[20]

When James Madison proposed the Bill of Rights in 1789, he wrote that the proposed amendments concerning the press and arms "relate first to private rights . . . ."[21] Ten days after its introduction, federalist leader Tench Coxe wrote of what became the Second Amendment: "As civil rulers, not having their duty to the people duly before them, may attempt to

tyrannize, and as the military forces which must be occasionally raised to defend our country, might pervert their power to the injury of their fellow-citizens, the people are confirmed by the next article in their right to keep and bear their private arms."[22] Madison endorsed Coxe's analysis, which was widely reprinted without contradiction.[23]

St. George Tucker, the first major commentator on the Constitution, wrote: "The right of self-defense is the first law of nature . . . . Wherever . . . the right of the people to keep and bear arms is, under any color or pretext whatsoever, prohibited, liberty, if not already annihilated, is on the brink of destruction."[24]

In the Dred Scott decision, the Supreme Court conceded that if African Americans were citizens, they would be "entitled to the privileges and immunities of citizens" and would be exempt from the special "police regulations" applicable to them. "It would give to persons of the negro race, who were recognized as citizens in any one State of the Union, the right to enter every other State whenever they pleased, singly or in companies. . .; and it would give them the full liberty of speech . . .; to hold public meetings upon political affairs, and <u>to keep and carry arms wherever they went</u>."[25]

During Reconstruction, the Court stated that the rights of the people "peaceably to assemble for lawful purposes" and "of bearing arms for a lawful purpose" were not "granted" by the Constitution because they existed long before its adoption.[26] The amendments which recognize these rights serve to "restrict the powers of the national government . . . ."[27] A later opinion again recognized "the right of the people to keep and bear arms" and repeated that the Second Amendment is a limitation "upon the power of Congress and the National government . . . ."[28]

At the turn of the century, the Court wrote of "the freedom of speech and of the press" and "the right of the people to keep and bear arms" that "the law is perfectly well settled that the first ten Amendments to the constitution, commonly known as the Bill of Rights, were not intended to lay down any novel principles of government, but simply to embody certain guaranties and immunities which we inherited from our English ancestors . . . ."[29] And in 1939, the Court held that the Second Amendment protects private possession of a weapon which "is any part of the ordinary military equipment or that its use could contribute to the common defense."[30] Historically defined, "the Militia comprised all males physically capable of acting in concert for the common defense"

and "these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time."[31]

Inherent in the right to keep and bear arms is the right to purchase arms. "The right to keep arms necessarily involves the right to purchase them, to keep them in a state of efficiency for use, and to purchase and provide ammunition suitable for such arms, and to keep them in repair."[32] The Second Amendment has recently been held to confirm that handguns are not unreasonably dangerous when marketed to the general public.[33] Being a penumbra of a fundamental, constitutional right, the right to purchase handguns cannot be infringed by waiting periods and police surveillance.

The proposed legislation will endanger legitimate self-defense because an emergency may occur during the waiting period. There may not be time, as H.R. 975 contemplates, to obtain a law enforcement certificate that the potential victim requires access to a handgun because of threats to his or her life. Indeed, the average citizen may not even be able to get an appointment to see the chief law enforcement officer. A similar law restricting pistols was held unconstitutional because it "would place law-abiding citizens entirely at the mercy of the lawless element. . . . For all practical purposes

it is prohibition of the constitutional right to bear arms. There would be no time or opportunity to get such permit . . . ."[34]

Even if there is time to get the law enforcement certificate showing imminent danger to life, many chief law enforcement officers refuse to recognize the right of ordinary citizens in danger to have arms. In some cases, it has taken years of protracted litigation to require such officers to issue firearms permits to which citizens are entitled.[35] The Indiana Court of Appeals has explained the problem as follows:

> We think it clear that our constitution provides our citizenry the right to bear arms for their self defense . . . .
>
> In Schubert's case it is clear from the record that the superintendent decided the application on the basis that the statutory reference to "a proper reason" vested in him the power and duty to subjectively evaluate an assignment of "self-defense" as a reason for desiring a license and the ability to grant or deny the license upon the basis of whether the applicant "needed" to defend himself.
>
> Such an approach contravenes the essential nature of the constitutional guarantee. It would supplant a right with a mere administrative privilege which might be withheld simply on the basis that such matters as the use of firearms are better left to the organized military and police forces even where defense of the individual citizen is involved.[36]

The court went on to find the ordinary citzen's interest in self-defense to be a proper reason for issuance of the license, and rejected the following "Catch-22":

> Any ordinary citizen applying for a license could be "factually" denied a permit because no one had actually threatened him. Thus, he would have no "need" to defend himself. Similarly, if threatened, the permit could be denied on the basis that the official police agencies were capable of handling the matter so that he had no "need" to defend himself.[37]

By contrast, in some states the courts have upheld police denials of firearms permits under the dogma that handguns can never be effectively used by private citizens for self-defense. Physicians who carried narcotics in their bags in high crime areas at night were not entitled to permits because, the New Jersey Supreme Court alleged, "their possession of handguns in the streets would . . . furnish hardly any measure of self-protection . . . ."[38] Massachusetts' highest court affirmed the one year mandatory prison sentence of a person who was repeatedly assaulted with a knife, complained to and sought protection from police to no avail, and was forced to carry a firearm, even though "it is possible that the defendant is alive today only because he carried the gun that day for protection."[39]

It is well established that "official police personnel and the government employing them are not generally liable to victims of criminal acts for failure to provide adequate police protection . . . ."[40] "There is no constitutional right to be protected by the state against being murdered by criminals or

madmen."[41] Public officials have been held not liable for negligent failure to issue firearms permits even where the person disarmed thereby is murdered.[42]

Not only will the provision for emergency certifications be nullified by police officials who are unwilling to recognize citizens' rights, but many handgun transactions will be defeated altogether by the existence of invalid local ordinances. The courts have repeatedly declared void local ordinances which conflict with and are preempted by state law on handgun sales.[43] Many of these ordinances remain on the books and are enforced despite repeated attorney general opinions that they are illegal.[44]

It is well established that "the right to defend oneself from a deadly attack is fundamental."[45] In declaring a handgun ordinance invalid as an interference with the rights to bear arms and to self defense, one court stated: "Even though the governmental purpose may be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved."[46] Another court has stated concerning the right to keep rifles and pistols: "The State can take no action which will unnecessarily 'chill' or penalize the assertion of a constitutional right and the State may not draw adverse inferences from the exercise of a consitutional

right."[47]

A waiting period with routine police scrutiny violates the rights to life, to have arms, and to privacy. Wholly aside from these infringements, the proposed legislation is not based on any known constitutional power and contradicts the constitutional scheme of federalism. It seeks to criminalize private transactions in firearms which are wholly unrelated to interstate commerce. It would impose overreaching federal burdens on legitimate activities, despite the fact that the overwhelming majority of states have rejected such laws. H.R. 155 and H.R. 975 would be precisely the kinds of infringements that the Bill of Rights was adopted to prevent.

NOTES

1. Valley Forge College v. Americans United, 454 U.S. 464, 484 (1982).

2. United States v. Carolene Products Co., 304 U.S. 144, 152 n.4 (1938).

3. Koingsberg v. State Bar of California, 366 U.S. 36, 49 n.10 (1961).

4. Lovell v. Griffin, 303 U.S. 444, 452 (1938) states:

> The liberty of the press is not confined to newspapers and periodicals. It necessarily embraces pamphelts and leaflets. These indeed have been historic weapons in the defense of liberty, as the pamphlets of Thomas Paine and others in our own history abundantly attest. The press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion.

As the experience of the Revolution attests, pistols, rifles, and shotguns have also been "historic weapons in the defense of liberty," to use the above language. Moreover, "'pistol' ex vi termini is properly included within the word 'arms,' and that the right to bear such arms cannot be infringed. The historical use of pistols as 'arms' of offence and defense is beyond controversy." State v. Kerner, 181 N.C. 574, 107 S.E. 222, 224 (1921).

5. Minneapolis Star v. Minnesota Comm. of Rev., 460 U.S. 575, 583 n.6 (1983).

6. Boston Gazette and Country Journal, Sept. 26, 1768, at 3, cols. 1-2.

7. Id., Feb. 27, 1769, at 3, col. 1, reprinted in 1 H. Cushing ed., THE WORKS OF SAMUEL ADAMS 316 (1904).

8. 18 PARLIAMENTARY HISTORY OF ENGLAND 512 (1813).

9. See S. Halbrook, THAT EVERY MAN BE ARMED: THE EVOLUTION OF A CONSTITUTIONAL RIGHT 59-60 (1984).

10. Pennsylvania Evening Post (Philadelphia), May 2, 1775, at 2, col. 2.

11. Id., May 9, 1775, at 3, col. 2. The same writer noted that at Lexington British regulars were defeated "by a handful of raw, undisciplined peasants."

12. Id., May 20, 1775, at 3, cols. 1-2.

13. Id., May 25, 1775, at 2, col. 1.

14. Id. June 24, 1775, at 2.

15. E. Ludlow, "To the Vilest Tool of the most profligate and tyrannical Administration that ever disgraced a Court. Inhuman Butcher!" Id., June 27, 1775, at 1, cols. 1-2.

A further editorial on Gage's proclamation stresses that an armed populace must keep government in check. "A Freeman," id. at 2, cols. 1-2 states:

> The opposing an arbitrary measure, or resisting an illegal force, is no more rebellion than to refuse obedience to a highway-man who demands your purse, or to fight a wild beast, that came to devour you. It is morally lawful, in all limited governments, to resist that force that wants political power, from the petty constable to the king. . . . They are rebels who arm against the constitution, not they who defend it by arms.

16. E.g., id., May 16, 1775, at 4, col. 2 includes the humorous advertisement: "A large quantity of Rifles for setting an edge to scythes . . . the great increasing Demand sufficiently proves them to be better and cheaper than any Stones . . . ."

17. 1 SOURCES OF AMERICAN INDEPENDENCE 176 (H. Peckham ed. 1978).

18. "The Scheme of Amendments," Independant Gazetter, March 23, 1789, at 2, col. 1.

19. R. Lee, ADDITIONAL LETTERS FROM THE FEDERAL FARMER 170 (1788).

20. Minneapolis Star v. Minnesota Com. of Rev., 460 U.S. 575, 584 (1983).

21. 12 MADISON PAPERS 193-194 (Rutland ed. 1979).

22. "Remarks on the First Part of the Amendments to the Federal Constitution," Federal Gazette, June 18, 1789, at 2, col. 1.

23. See S. Halbrook, supra note 9, at 76-77.

24. 1 Tucker, BLACKSTONE'S COMMENTARIES (Appendix) 300 (1803). Henry St. George Tucker, another major commentator, wrote that "the right of bearing arms" was one of the "protections or barriers [which] have been erected which serve to maintain inviolate the three primary rights of personal security, personal liberty, and private property." 1 Tucker, COMMENTARIES ON THE LAWS OF VIRGINIA 43 (1831).

25. Scott v. Sanford, 60 U.S. (19 How.) 393, 417 (1857). "Nor can Congress deny the people the right to keep and bear arms, nor the right to trial by jury, nor compel anyone to be a witness against himself in a criminal proceeding." Id. at 450.

26. United States v. Cruikshank, 92 U.S. 542, 551, 553 (1876).

27. Id. at 553.

28. Presser v. Illinois, 116 U.S. 252, 265 (1886). Miller v. Texas, 153 U.S. 535, 538 (1894) repeats that "the restrictions of" the Second and Fourth Amendments operate "upon the Federal power."

29. Robertson v. Baldwin, 165 U.S. 275, 281-282 (1897).

30. United States v. Miller, 307 U.S. 174, 178 (1939).

31. Id. at 179.

32. Andrews v. State, 3 Heisk. (Tenn.) 165, 8 Am. Reports 8, 13 (1871) (citing Second Amendment and state guarantee).

33. Rhodes v. R.G. Industries, 173 Ga. App. 51, 325 S.E.2d 465, 466-67 (1985) states:

> Appellant first contends that "the trial court erred in holding as a matter of law that handguns are exempt from Georgia's product liability law because

> the lack of safety connected with such weapons raises a political, nonjusticiable question." Her last contention is that the trial court erroneously held as a matter of law that the R.G. revolver is not unreasonably dangerous when marketed to the general public. We disagree on both points. The Second Amendment to the U.S. Constitution guarantees the right of the people to keep and bear arms, as does Art. I, sec. I, Par. VIII of the Georgia Constitution 1983, which states that that right "shall not be infringed, but the General Assembly shall have the power to prescribe the manner in which arms may be borne."

Accord, Martin v. Harrington and Richardson, 743 F.2d 1200, 1204 (7th Cir. 1984) ("the right of private citizens in Illinois to bear arms is protected"). See S. Halbrook, Tort Liability for the Manufacuture, Sale, and Ownership of Handguns? 6 HAMLINE L. REV. 351, 364-379 (1983).

34. State v. Kerner, 181 N.C. 574, 579, 107 S.E. 222, 225 (1921).

35. See Motley v. Kellogg, 409 N.E.2d 1207, 1210 (Ind. App. 1980) (police chief "denied members of the community the opportunity to obtain a gun permit and bear arms for their self-defense."); Buffa v. Police Dept. of Suffolk County, 47 A.D.2d 841, 366 N.Y.S.2d 162 (1975) ("withdrawal of police approval" insufficent reason); Storace v. Mariano, 35 Conn. Sup. 28, 391 A.2d 1347, 1349 (1978) ("in my opinion, he is an unsuitable person to carry a gun" insufficient reason); Salute v. Pitchess, 61 Cal.App.3d 557, 132 Cal.Rptr. 345, 347 (1976) (sheriff may not determine in advance "that only selected public officials can show good cause" for permit); Schwanda v. Bonney, 418 A.2d 163, 165 (Ma. 1980) (criteria not mandated by state statute may not be imposed); Iley v. Harris, 345 So.2d 336, 337 (Fla. 1977) (permit must be based on criteria, not discretion).

36. Schubert v. DeBard, 398 N.E.2d 1339, 1341 (Ind.App. 1980).

37. Id. at 1341 n.5.

38. Reilly v. State, 59 N.J. 559, 284 A.2d 541, 542 (1971).

39. Commonwealth v. Lindsay, 396 Mass. 840, 489 N.E.2d 666, 669 (1986).

40. Warren v. District of Columbia, 444 A.2d 1, 8 (1981).

41. Bowers v. DeVito, 686 F.2d 616, 618 (7th Cir. 1982).

42. Nunn v. State, 35 Cal.3d 616, 200 Cal.Rptr. 440, 677 P.2d 846 (1984).

43. E.g., Doe v. San Francisco, 186 Ca. Rptr. 380, 136 Cal.App.3d 509 (1983) (ordinance prohibited any further handgun sales); Dwyer v. Farrell, 193 Conn. 7, 475 A.2d 257 (1984).

44. E.g.s, 1982-1983 Report of the Attorney General (Virginia) at 755 (1983); 1981-1982 Report of the Attorney General (Virginia) at 112 (1982).

45. United States v. Panter, 688 F.2d 268, 271 (5th Cir. 1982).

46. City of Lakewood v. Pillow, 180 Colo. 20, 501 P.2d 744, 745 (1972).

47. State v. Rupe, 101 Wash.2d 664, 683 P.2d 571 (1984).

Appendix 7.—Prepared Statement of Edward S. Jerse, Esq., Arthur & Hadden, Cleveland, OH

STATEMENT OF EDWARD S. JERSE

Chairman Hughes, Subcommittee Members:

I appear here today to strongly urge your passage of legislation mandating a waiting period for the purchase of handguns. As someone who has lost a close family member to handgun violence, I know well the terrible cost of our nation's lax attitude toward such violence and of our unwillingness to address responsibly the question of handgun control. I cannot say that my sister would be alive today had waiting period legislation been in effect in 1983. I do believe that she might well be alive if a climate of responsibility and abhorrence of handgun violence had prevailed at that time. You can take a step toward creating such a climate in this country by passing waiting period legislation.

On January 31, 1983, my sister, Dr. Mary Ann Jerse O'Connor, was a 28-year-old resident in psychiatry at the University of Wisconsin at Madison. After over 20 years of dedicated study, she was embarking on a career in medicine assisting the mentally ill. She had a husband and a family that loved her. On that day, a mentally unbalanced young man who she had tried to help came to her office with a .25 caliber handgun and shot my sister through the heart.

I have long listened to the debate on handgun control. As a lawyer, I have been trained to see both sides of a question. As someone active in politics, I understand pragmatism and the pressures of interest groups. However, as someone who has felt personally the consequences of handgun violence, I cannot understand the reluctance of this nation to pass meaningful handgun control legislation.

I have listened to the debate on handgun control and found it to be an interesting academic exercise. Maybe Hitler did begin by confiscating the guns of individuals. It certainly is interesting to ponder what the Founding Fathers meant by "the

right to bear arms." But we are not engaged in an academic exercise. Too many people - people who were loved and who could have contributed greatly to this country - have died and too many more will die from handgun violence. We need meaningful handgun control legislation.

It has been said that a single act of charity or courage, through a ripple effect, can touch a thousand points. In the same way, an act of violence can touch a thousand points and pass a painful legacy through the generations. The bullet of the misguided young man did more than take a single life. It robbed a community and the many people she might have helped of a dedicated and talented physician; it took from us the children she hoped to have; and it left scars which will never completely heal on her family, her colleagues and her many friends.

In speaking of the young men killed in Vietnam, Robert Kennedy wondered which of them might have found a cure for cancer or played in a World Series or brought us the gift of laughter from the stage. Today, we allow handgun violence to rob us of that same potential. I know that any handgun control legislation - even legislation as simple and sensible as that mandating a waiting period - will meet well-financed opposition and expose to political risk those who support it. I ask that you look beyond those practical considerations and consider the greater pain and loss to this country which are the consequence of handgun violence. I ask that you pass this waiting period legislation and try to make this country one which is more civilized and more respecting of human life.

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